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R E P O R T

O F

THE HONOURABLE MR. JUSTICE WILFRID D. ROACH

AS A COMMISSIONER APPOINTED UNDER

THE PUBLIC INQUIRIES ACT

B Y

LETTERS PATENT DATED DECEMBER 11, 1961.



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P A R T O N E

To the Lieutenant-Governor in Council of the
Province of Ontario

By Letters Patent dated December 11,
1961, you appointed me your Commissioner under
The Public Inquiries Act, R.S.O. 1960, Chapter
323, to inquire into and report upon

- (1) the administration of the laws and
regulations regarding the incorpor-
ation and operations of social clubs
having regard to allegations made by
the Leader of the Opposition in his
Speech of November 29, 1961;
- (11) any improper relationships, as alleged
by the Leader of the Opposition in his
Speech of November 29th, 1961, between
senior officials of the legal staff of
the Department of the Attorney General
and any person or persons, and more
particularly relating to -
 - (a) the termination of investigations,
 - (b) the suppression of evidence,
 - (c) the payment of money;
- (111) the extent of crime in Ontario and the
sufficiency of the law enforcement
agencies to deal with it.

A copy of that Commission is Exhibit 1
in the Appendix attached hereto.

CHAPTER I

RECORD OF SITTINGS

Public hearings commenced on March 20, 1962. There were two reasons why they did not start earlier. First, having regard to the nature and scope of the inquiry certain organizational and other necessary preliminary work had to be done by me with the aid of counsel; second, office accommodation for myself and staff and a public hearing room had to be provided. Such accommodation was not readily available.

Notice that public hearings would commence on March 20 was published in the Press throughout the Province. A copy of that Notice and the names of the papers in which it was published is Exhibit 2 in the attached Appendix.

I held public hearings on 66 days between March 20 and October 23.

It is fundamental that hearings before a Commissioner appointed under The Public Inquiries Act, except in most unusual circumstances, should be open to the public. Early in the proceedings before me a situation developed that in my opinion justified my holding a hearing in camera to take the evidence of one witness, by name Frank Gardner, who, according to other evidence, was involved with others in a big way in criminal activities in the Province. I was advised by police officers in whom I had confidence that, with others, he might give valuable information if brought before me by subpoena and put under oath provided his identity,

at least for the time being, could be kept secret, and moreover that if by his evidence he informed on others and his identity became at once known reprisals might be taken against him; that on an earlier occasion he had made and actually kept an appointment with an officer on the Ontario Provincial Police Force for the purpose of "telling all he knew" and at the last minute recanted supposedly because of fear of violence. In those circumstances I heard his evidence in camera. I shall deal with him and his evidence later herein.

Near the end of the hearings I held, in camera, a whole day's conference, which was recorded, with Commissioner Harvison of the R.C.M.P., Commissioner Clark of the Ontario Provincial Police and the Chiefs of Police from the larger centres in the Province, at which conference crime generally and the ways of criminals and policing problems were considered. It would have been foolish to make the information conveyed by them to me available to the underworld.

———— " ————— " —————

CHAPTER II

THE POSITION OF COUNSEL

On or about January 10, 1962, Mr. Roland F. Wilson, Q.C. was appointed by the Government of the Province as counsel to the Commission. Later Mr. M.W. Carty, barrister and solicitor, joined the staff as assistant counsel.

At all the hearings both public and in camera excepting only the conference with the Police to which I have just referred the Liberal Party and the New Democratic Party were each represented by counsel and I permitted them to examine witnesses called by Commission counsel. Those counsel from time to time were:

For the Liberal Party - Mr. B.J. MacKinnon, Q.C.,
Mr. W.Z. Estey, Q.C., Mr. Stanton Hogg
and Mr. M.R. MacGuigan

For the New Democratic Party - Mr. Andrew Brewin, Q.C., Mr. Reid Scott,
Mr. Owen Shime and Mr. P.D. Lawlor
Mr. W.B. Common, Q.C., Deputy Attorney General, and Mr. Frank Wilson, solicitor in the department of the Attorney General, were also present at nearly all of the public hearings but took no part in the examination of witnesses. Questions that they desired to be put to witnesses were put through Commission counsel. That procedure was followed by them as a matter of choice and not by way of compliance with any procedural rule laid down by me with respect to them.

There were many persons called to give evidence before me who were represented by counsel. With the exception of Mr. Walton C. Rose, Q.C. to whom I shall refer later herein those counsel all followed the same procedure with respect to the examination of witnesses as was followed by Mr. Common and Mr. Frank Wilson.

I have heard some criticism of my having extended to counsel for the Liberal and New Democratic Party respectively the right to examine witnesses called by Commission counsel and I think it desirable that I should now state why I did so.

The Public Inquiries Act does not prescribe any method or procedure to be followed by a Commissioner in conducting an inquiry thereby authorized save only when the validity of the Commission or the jurisdiction of the Commissioner or the validity of any decision, order, direction or other act of the Commissioner is called into question by any person affected. Unless the Commission itself prescribes the procedure to be followed - and in this instance it did not - it is anticipated that the Commissioner will adopt the procedure that he considers will be most effectual and appropriate having regard to the inquiry that he is required to make. Needless to say, I concluded that having regard to the nature of this particular inquiry and the circumstances that led to it I should allow counsel representing the opposition parties in the House to examine witnesses called by Commission counsel. It seemed to me of prime importance that when the work of this Commission would be ended there would be no room for the suggestion that there was any element of unfairness in the procedure adopted by me or that anything had been left undone that should have been done in my search for the truth. When the examination of a witness by Commission counsel would be

ended I might think that it was full and complete and that every relevant fact of which that witness had any knowledge had been elicited from him, or I might feel that he was withholding information in order to protect himself and/or others but that further prodding in an effort to have him disgorge it was useless. In either case I might be mistaken, or what is equally important other persons might think that I was, and that further probing would bring to light important information.

To those of us engaged in the administration of justice there is a very familiar saying that in the administration of justice it is not only important that justice be done but that it is also of fundamental importance that it should manifestly and undoubtedly be seen to be done. It is trite to say that where, as here, allegations of malfeasance, misfeasance and non-feasance in the administration of public affairs in the Province has led to the establishing of a Royal Commission to investigate the same the public are vitally interested in the result. Applying the statement which I have just quoted with the necessary variation I would say that having regard to the nature of this inquiry not only was it important that it be full and complete but it was equally important that all the public should be made to feel and see that it was. I would be less than realistic if I did not recognize that among the public there are some who entertain some misgivings with respect to the position of Commission counsel. Because he is appointed to that position by the Government they regard him - wrongfully, of

course, - as beholden to it and if not by design at least unconsciously to tread lightly in areas where the evidence may be adverse to the Government that appointed him and to play fortissimo where it may be in its favour. By permitting counsel for the opposition parties in the House to examine witnesses called by Commission counsel I felt that I would thereby make it impossible for even that class of persons to suggest with any semblance of justification that any imagined tip-toeing by Commission counsel could have affected the result.

There was still another reason closely related to the first that persuaded me that it would be proper to permit counsel for the opposition parties in the House to examine witnesses called by Commission counsel. It was this: I regarded the members of the Government and the members of the opposition parties in the House as together representing all the people in the Province. The Government consisting of the majority of the representatives in the House appointed Commission counsel not to represent it as a party politic but to assist the Commissioner as his independent representative responsible to no one except him. It seemed to me to be eminently fair and proper that both the opposition parties in the House should be permitted to nominate counsel not to represent them as parties politic but to assist the Commissioner in the same way as counsel to the Commission appointed by the Government. In that way I felt the public generally

would participate through their nominees in the work of this Commission. I was acutely aware of the danger inherent in this method of procedure, viz. the injection of political considerations into the proceedings. That danger, it seemed to me, was minimal in contrast to the advantage in that procedure, and that I could guard against that danger, and to the best of my ability I did.

The foregoing were the reasons why in the first instance I adopted that procedure.

As a result of a majority decision of the Court of Appeal for Ontario given during the course of the proceedings I think it must now be recognized that I would have been wrong had I refused counsel for the opposition parties in the House the right of examining witnesses called by Commission counsel. During the course of the public hearings one Walton C. Rose, lawyer, appeared before me and stated that he had been retained by three persons, by name Joseph P. McDermott, Vincent B. Feeley and Frank Gardner who, according to the evidence already given, had figured prominently in organized crime in the Province. Mr. Rose requested that as their counsel he be granted leave

(a) to call witnesses on their behalf

(b) to examine or cross-examine witnesses called by counsel to the Commission or by any other person with respect to evidence given by the said witnesses which was or which might be adverse to the interests of his clients, and

(c) that he be furnished with a transcript of

the evidence theretofore given by Gardner.

I refused that request, whereupon Mr. Rose asked that I state a case to the Court of Appeal pursuant to Section 5 (1) of The Public Inquiries Act.

I refused to do so on the ground that in my opinion his clients were not "persons affected" within the meaning of those words in the Act. Subsequently Mr. Rose obtained an Order from the Court of Appeal requiring me to do so. Of course I complied. Upon the hearing of that stated case the Court of Appeal by a majority decision held that I had been wrong in refusing Mr. Rose's request. The ratio of the Court's decision was that his clients were "(persons) affected" within the meaning of Section 5 of the Act notwithstanding that my function as a Commissioner was only to inquire and report and that it was no part of my duty to determine the guilt or innocence of any person and no question was before me affecting "the person or property" of any person.

I had regarded an investigation under The Public Inquiries Act as inquisitional rather than accusatorial. I think it is implicit in the decision of the Court of Appeal that Mr. Rose's clients should be regarded as being quasi-accused, even though they were not on trial before me. Regarded in that light, they were "persons affected" within the meaning of those words in the Act and entitled to the rights claimed for them by Mr. Rose.

Just as for every accused there must be an accuser, so also for every quasi-accused there must be a quasi-accuser. If the quasi-accused, in an

inquiry conducted under The Public Inquiries Act, is entitled to be represented by counsel with the right to call witnesses and to cross-examine witnesses called by Commission Counsel for the purpose of refuting accusations against him, surely his quasi-accuser is entitled to the same right for the purpose of supporting his accusations.

But Mr. Wintermeyer in his speech said that he accused no one. I do not so read his speech.

———— " ————— " —————

P A R T T W O

CHAPTER III

THE FORMAT OF MR. WINTERMEYER'S SPEECH

Since the first two terms of reference pertain to allegations made by the Leader of the Opposition in his speech of November 29, 1961, it seems appropriate that I should commence by taking that speech and analyzing it to see what those allegations are. The full speech is contained in the printed copy of The Legislature of Ontario Debates of that date one of which is included as Exhibit 3 in the Appendix hereto. The following is, I think, a fair summary of the allegations contained therein which come within the first two terms of reference; -

- I that, in recent years there has been organized gambling in Ontario; that in those years it has become widespread within the Province and that those engaged in it have criminal affiliates and associates beyond the Province co-operating with them;
- II that its existence and growth has been due in large measure to
 - (a) the more or less indiscriminate issuance through the Department of The Provincial Secretary of charters incorporating social clubs under The Corporations Act, and its precursor, The Companies Act,
 - (b) the failure on the part of those empowered to do so to bring about the cancellation of charters when it was apparent that they were being used for unlawful purposes,
 - (c) the contamination of police officers and certain identified personnel in the Department of The Attorney General,

- (d) the failure on the part of senior officials in the Department of The Attorney General to repress it, such failure consisting of
- (1) the improper termination of investigations
 - (2) the suppression of evidence.

In hereby reporting to you I shall deal with the matters covered by him not in the exact order in which they are set out in that format but rather by following the terms of reference in the order in which they are set out in the Commission issued to me.

_____ " _____ " _____

CHAPTER IV

AN INCORPORATED SOCIAL CLUB AS AN AID TO PROFESSIONAL GAMBLERS

My investigation disclosed that commencing about the forties there was an alarming upsurge in organized gambling in this Province particularly in gaming. It was carried on in premises ostensibly occupied and operated by incorporated social clubs but the real operators were professional gamblers.

The fact that gamblers were able to obtain through the Department of The Provincial Secretary letters patent incorporating social clubs and/or get control of charters originally granted to others was an important and contributing factor in enabling them to carry on their illegal operations. Gambler Vincent B. Feeley in his evidence repudiated the suggestion that he and others like him needed the assistance of corrupt police officers or public officials by saying that all they needed in order to carry on their activities was a "charter and a good strong door that would take the police a long time to break down". Such a door would be a physical

barrier to impede the police in a raid on the premises. A social club charter provided protection of a different type the nature and extent of which is derived from certain provisions in The Criminal Code.

Section 176 of The Criminal Code provides as follows:

"176. (1) Every one who keeps a common gaming house or common betting house is guilty of an indictable offence and is liable to imprisonment for two years.

- (2) Every one who
 - (a) is found, without lawful excuse, in a common gaming house or common betting house, or
 - (b) as owner, landlord, lessor, tenant, occupier or agent, knowingly permits a place to be let or used for the purposes of a common gaming house or common betting house,

is guilty of an offence punishable on summary conviction."

Section 168 of The Criminal Code provides in part as follows:

- "(1) (d) "Common gaming house" means a place that is
- (i) kept for gain to which persons resort for the purpose of playing games; or
 - (ii) kept or used for the purpose of playing games
 - (A) in which a bank is kept by one or more but not all of the players,
 - (B) in which all or any portion of the bets on or proceeds from a game is paid, directly or indirectly, to the keeper of the place,
 - (C) in which, directly or indirectly, a fee is charged to or paid by the players for the privilege of playing or participating in a game or using gaming equipment, or
 - (D) in which the chances of winning are not equally favourable to all persons who play the game, including the person, if any, who conducts the game;
 - (f) "Game" means a game of chance or mixed chance and skill;

- " (h) "Keeper" includes a person who
- (i) is an owner or occupier of a place,
 - (ii) assists or acts on behalf of an owner or occupier of a place,
 - (iii) appears to be, or to assist or act on behalf of an owner or occupier of a place,
 - (iv) has the care or management of a place, or
 - (v) uses a place permanently or temporarily with or without the consent of the owner or occupier; and
- (i) "Place" includes any place, whether or not
- (i) it is covered or enclosed,
 - (ii) it is used permanently or temporarily, or
 - (iii) any person has an exclusive right of user with respect to it".

Subsection (2) of Section 168 is an exemption clause which operates very much to the advantage of persons who want to operate a common gaming house without being detected. It is in part as follows:

- "(2) Exception. A place is not a common gaming house within the meaning of subparagraph (1) or clause (B) or (C) of subparagraph (ii) of paragraph (d) of subsection (1)
- (a) while it is occupied and used by an incorporated bona fide social club or branch thereof if
 - (i) the whole or any portion of the bets on or proceeds from games played therein is not directly or indirectly paid to the keeper thereof, and
 - (ii) no fee in excess of ten cents an hour or fifty cents a day is charged to persons for the right or privilege of participating in the games played therein,"

That subsection does not authorize the operation or use of premises by an incorporated bona fide social club for illegal purposes: It makes legal certain prescribed activities when carried on in premises used or occupied by an incorporated bona fide social club which would be illegal if carried on in the same place by an unincorporated bona fide social club. The gamblers are not interested in carrying on the activities thereby made legal but they are vitally

interested in the fact that a charter for a social club provides them with a screen behind which they can carry on operations that are not made legal by the subsection with a substantially reduced risk of being caught at it. For example, in a "gambling joint", - to use the vernacular, - the bank is kept by the operator or operators or some person or persons on their behalf and not by all of the players. A strong door may impede the entry of the police but by the time they gain entry there is no visible evidence that such a bank game had been in progress. If at that moment a game is in progress it is or appears to be one that is legal when carried on in premises used or occupied by an incorporated bona fide social club. The only person who could testify that an illegal bank game had been in progress would be one who was present at the time that it was being played. It is for that reason that the police have from time to time, sometimes successfully, sometimes not, attempted to get undercover operators into the premises who could watch the operations.

Subsection (3) of Section 168 of The Criminal Code provides that

"The onus of proving that, by virtue of subsection (2), a place is not a common gaming house is on the accused."

I do not regard it as coming within the scope of my function as your Commissioner to express an opinion as to what would constitute such proof. That would be a matter to be decided by the court in each case coming before it. However, at the risk of the court holding otherwise, I am prepared to suggest, as I now do, that the mere production of the charter

would not satisfy that onus. The accused would still have to prove that the club was a bona fide social club and in addition prove the matters specified in subsections (i) and (ii) of subsection (a). The necessity for that proof, however, would not be insurmountable to the professional gamblers who operate these places because they are usually liars having no regard for the sanctity of an oath.

What I have thus far said will enable you to appreciate the difficulties arising out of Section 168 (2) as far as the police are concerned. It was these difficulties that prompted Mr. Cudney, the Deputy Provincial Secretary, to state in evidence before me that this whole subject of social club charters has been for years a "bugbear" for the Department.

_____ " _____ " _____

P A R T T H R E E

CHAPTER V

THE AREA OF MY INQUIRY

Under the first term of reference I directed my inquiry and attention to these matters: -

First - Were the laws and regulations observed in the granting of letters patent and supplementary letters patent and how was the declared policy of The Provincial Secretary in respect of the same applied.

Second - Did The Provincial Secretary apply the laws and regulations and the declared policy of his Department with respect to cancellation of letters patent, and if so in what manner.

In inquiring into both those matters I had to fix a starting point. In doing so I discussed the problem with all counsel and it was agreed that it would be reasonable to fix January 1, 1950, as a sort of general starting point. If, in the course of the proceedings, it should appear necessary to inquire into any charter granted prior to that date I should do so but as a matter of practicality I should take that as the general starting date.

There were 1033 social clubs incorporated subsequent to January 1, 1950. Was I to inquire into everyone of them? That would have taken a very long time. Then into which of them should I inquire?

The first term of reference in the Commission issued to me qualified the inquiry I was to make thereunder by the words "having regard to allegations made by the Leader of the Opposition in his speech of November 29, 1961". Mr. Wintermeyer in that speech had made specific allegations with respect to the incorporation and operation of certain named clubs and some not named but otherwise referred to.

In the proceedings before me counsel for the Liberal Party, at my request, supplied me with the names of the clubs to which Mr. Wintermeyer had referred without naming them.

In his speech Mr. Wintermeyer also referred to what he there described as "evidence of trafficking in social club charters; long dormant charters being suddenly revived; movement of club locations from one part of Ontario to another; failure to file returns with The Honourable Provincial Secretary and operation of a succession of dubious and suspicious charters at the same address at which clubs had been closed because of court convictions".

In a brief filed with me by The Provincial Secretary, copies of which were given to counsel for the Opposition Parties in the House, he dealt with all the social club charters that had been granted subsequent to January 1, 1950, and all the charters that had been cancelled after that date. In an appendix to that brief he had listed the names of clubs within the Toronto area concerning which the police had submitted complaints to his department.

Through the co-operation of Chief Constable Mackey I made available to all counsel the relevant

information in the files of the Police Department.

As the result of a conference held by me with all counsel and The Provincial Secretary it was agreed that it would suffice if in addition to all the foregoing information certain files in the Department of The Provincial Secretary, one hundred and twenty-two in number, and which contained the records of clubs located not only in the Toronto area but elsewhere in the Province would be examined and through the co-operation and assistance of the Minister and his staff they were examined jointly by counsel for the Opposition Parties and by Commission Counsel. Some of those files contained the records of clubs incorporated as far back as 1925.

As a result of all the information elicited by counsel from the foregoing sources evidence was given concerning certain specific clubs and in hereby reporting to you on that evidence I do so under two headings: First, Incorporation Proceedings, and Second, Cancellation.

————— " ————— " —————

P A R T F O U R

INCORPORATION AND
SUPPLEMENTARY LETTERS PATENT

CHAPTER VI

THE LAWS, REGULATIONS AND DEPARTMENTAL POLICY CONCERNING
THE INCORPORATION AND OPERATIONS OF SOCIAL CLUBS

Prior to April 30, 1954, the laws regarding the incorporation and operations of social clubs were contained in The Companies Act R.S.O. 1950, Chapter 59, and the amendments thereto.

In 1953 The Corporations Act was enacted and came into force on April 30, 1954, and is now found in The Revised Statutes of Ontario 1960, Chapter 71.

For your convenience I am attaching as Exhibit 4 in an appendix hereto the relevant sections of The Corporations Act indicating in brackets thereafter the corresponding section, if there was one, in the former statute, viz. The Companies Act. They are somewhat lengthy and I thought it would be more convenient and appropriate to the circumstances to get them before you in this way rather than to include them in the body of this report.

Section 35 of The Companies Act (I have not made any reference to it in the appendix) provided that the Lieutenant Governor in Council might make regulations with respect to any matter necessary or advisable to carry out effectively the intent and purpose of the Act.

Section 335 (b) of The Corporations Act (I have not included it in the appendix) is to like effect. In terms it is as follows:

"335. The Lieutenant Governor in Council may make regulations

(b) respecting any matter that he deems requisite for carrying out the objects of this Act...."

In a brief filed with me and entered as Exhibit 253 the present Provincial Secretary, The Honourable Mr. Yaremko, has set out the policy of

his Department over the years with respect to the incorporation of Social Clubs. It was not static and as I will point out later herein it was varied from time to time in what unquestionably was an honest and sincere effort to overcome the misuse by professional gamblers of social club charters.

In 1952 a Select Committee of the Legislature was set up to review all matters relating to corporations. Among its recommendations was one to the effect that all departmental practice should be set forth in regulations. I interpret that as meaning that all departmental practice from time to time should be set forth in regulations. That has not and indeed could not have been done. The essence of a regulation is its legislative nature. (See The Regulations Act, 1960 R.S.O., Chapter 349, Section 1 (d)). There are many matters of policy in the Department of The Provincial Secretary as in every other department of Government that are purely procedural, i.e. administrative as opposed to legislative, and for that reason could not be included in the Regulations under The Regulations Act.

The history of the development of and changes from time to time in departmental policy is somewhat lengthy. It seems to me to be of sufficient importance to be included in this report. I have condensed it to the extent that its importance will permit and I concluded that, unlike the relevant sections of The Corporations Act, it should be set out in the body of this report rather than in an appendix.

Until August 1946 the policy of the Department with respect to the incorporation of social clubs was as follows:

The applicants for incorporation were required to furnish a full description of the club premises and detailed information as to the proposed methods for financing the operations of the club and to submit a list of the names, addresses and occupations of the proposed members of the club so far as then ascertained. The information so required was to be forwarded by the Department to the Deputy Commissioner of the Provincial Police and to the Chief of the local police of the municipality in which the club proposed to function for their inquiry and report. If either report should be adverse by reason that any of the club's sponsors had a police record in connection with the operation of or frequent gambling resorts or by reason that the proposed club house constituted a fire hazard the applicants were to be advised that the Department would not deem it advisable to grant incorporation.

In August 1946 the departmental policy was amended so that thereafter all letters patent incorporating social clubs would include this special clause

"It is hereby ordained and declared that if it is made to appear to the satisfaction of the Provincial Secretary that the premises occupied by the Corporation are equipped, guarded or otherwise constructed or operated so as to hinder or prevent lawful access to and inspection of such premises by police or fire officers, these letters patent may be revoked or made void by and in the discretion of the Lieutenant Governor in Council".

This clause became known as the "bars and bolts" clause. I do not understand why, by it, the revocation was to be by The Lieutenant Governor in Council. By Section 29 of The Companies Act The Lieutenant Governor was given power to cancel for

sufficient cause and I should have thought that breach of a condition in the charter would have constituted "sufficient cause".

In addition to the inclusion of that clause in the letters patent it was also provided that they would limit the operations of the club to a named municipality.

In February 1948 there was a rather curious change in departmental policy with respect to referral of applications for incorporation to the police. A special provision was drafted that might or might not be included in the letters patent depending on the willingness or unwillingness of the applicants. It was as follows:

"It is ordained and declared that the corporation is prohibited from occupying and using a house, room or place as a club to which subclause ii of clause b of section 226 (now clause (a) of Section 2 of Section 168) of the Criminal Code is by that subclause made not applicable; and if it is made to appear to the satisfaction of the Provincial Secretary that the corporation purports so to use a house, room or place these letters patent may be revoked and made void by and in the discretion of the Lieutenant Governor in Council".

If the applicants were willing that the foregoing clause be included in the letters patent the application was not to be referred to the police: Otherwise it was to be so referred.

The Provincial Secretary could have laid down a policy that provided for the insertion of that prohibitory clause in every social club charter thereafter granted. I do not know why its inclusion was left to the discretion of the applicants. No persons are entitled as a matter of absolute right to letters patent incorporating a social club. The Crown can

exercise its discretion in either granting or refusing to grant an application for incorporation and in the exercise of that discretion has the constitutional power to impose conditions in the letters patent and to provide therein that in the event of the breach of those conditions the letters patent may be cancelled.

Early in 1949 the policy of the Department was again altered as follows: If the foregoing last mentioned prohibitory clause was not to be included in the letters patent the activities of the club were to be limited to a particular street address and not merely to a municipality. Further the applicants were not to be "office incorporators" but rather persons who would continue to be members after incorporation. The reference to "office incorporators" is a reference to the practice of having as applicants members or employees of a law firm who, following incorporation would be succeeded by those who would be actually engaged in the operations of the corporation.

I pause to observe that this provision would not necessarily prevent professional gamblers from obtaining a social club charter with the intention of using it as a sham to enable them to carry on their illegal gambling operations. They could still get friends of theirs who had no criminal record to act as original applicants and remain members of the club while actually handing over the operations of the club to the gamblers who sought incorporation.

In May 1950 as a result of a statement published in the Press by the then Mayor of the City of Toronto the then Premier of the Province, The Honourable Mr. Frost, called a meeting which was attended by himself, the then Provincial Secretary (The Honourable G.A. Welsh), the Mayor and other members of the Council of the City of Toronto and representatives of the Toronto Police Department. Following the discussions at that meeting the following policy (omitting a portion that was of no significance in the hearings before me, namely a portion dealing with the applications for club charters in areas where the Canada Temperance Act or prohibition, by reason of Ontario legislation, was in force) was laid down. With that exception I transcribe it in full:

" The applicants for the incorporation of all clubs of any nature, either with or without share capital, should not be "office incorporators" but rather persons who will continue to be members or shareholders of the club after incorporation meetings.

In all applications for incorporations of clubs, either with or without share capital and of any nature, social, athletic, community or otherwise, with the exception of service clubs, a covering letter accompanying the application should state the reason why incorporation is desired. The departmental policy is only to grant incorporations to clubs, except service clubs, if the reason for incorporation is to better enable the club to hold real estate. There may be certain exceptions to this rule as, for example, the applicants may desire incorporation for the purpose of enabling them to qualify in international competitions, such as a motorcycle club. However, these other reasons on which incorporation may be granted will no doubt be rare and the policy generally is to limit incorporation almost without exception to where the reason is to hold real estate.

If such satisfactory reason is given for incorporation all applications for incorporation of clubs either with or without share capital

"and of any nature, social, athletic, community or otherwise, with the exception of service clubs, should be referred to the Provincial Police and the Chief Constable of the Municipality where the activities of the club are to be carried on. The reference to the police should indicate the names, ages, business and residence addresses of the applicants, proposed objects, the location of the head office and the particular street address where the activities of the club are to be carried on. Enquiry should be made of the police as to whether they know of any reason why incorporation should not be granted.

The Letters Patent of all clubs, either with or without share capital, and of any nature, social, athletic, community or otherwise, with the exception of service clubs, should limit the activities of the club to a particular street address. This limitation should be prefixed to the objects. For example, the objects would read, "At 18 Elizabeth Street, in the City of Toronto, and not elsewhere, to maintain, operate and conduct a social club etc." In the case of some clubs, such as a summer resort club where the activities of the club are carried on in a township and there is no particular street address, then the activities should be limited to a particular lot and concession number. There may be certain cases whereby by the nature of the club, it is not possible to limit the activities to a particular street address. For example, a flying club could not be so limited. In such case, the location of the club premises should be limited to a particular address. For example, a flying club should have the following clause in its Letters Patent:

"Provided however, that the Corporation shall not maintain a clubhouse or similar premises other than at Lot 1 Concession 1 in the Township of
in the said ".

In the Letters Patent of all clubs, either with or without share capital and of any nature whether social, athletic, community or otherwise, with the exception of service clubs, the two following clauses should always be included in the Letters Patent;

"AND IT IS ORDAINED AND DECLARED that the Corporation is prohibited from occupying and using a house, room or place as a club to which subclause ii of clause b of section 226 of the Criminal Code (Canada)" (now Clause A of Section 2 of Section 168) "is by that subclause made not applicable; and if it is made to appear to the satisfaction of the Provincial Secretary that the Corporation purports so to use a house, room or place, these Letters Patent may be revoked and made void by and in the discretion of the Lieutenant Governor in Council.

"IT IS HEREBY ORDAINED AND DECLARED that if it is made to appear to the satisfaction of

"the Provincial Secretary that the premises occupied by the Corporation are equipped, guarded or otherwise constructed or operated so as to hinder or prevent lawful access to and inspection of such premises by police or fire officers or are found fitted or provided with any means or contrivances for playing any game of chance or any mixed game of chance and skill, gaming or betting, or with any device for concealing, removing or destroying such means or contrivances, these Letters Patent may be revoked or made void by and in the discretion of the Lieutenant-Governor in Council".

Following the coming into force of the Corporations Act in April 1954 some of the provisions contained in departmental policy as laid down in 1950 were enacted into regulations and are now contained in Section 23 of Regulation 61 passed under that act:

"23-(1) Where the objects of a corporation, other than a corporation commonly known as a service club, are in whole or in part of a social nature, the letters patent or supplementary letters patent of the corporation shall limit the location of,

- (a) its activities;
- (b) its clubhouse or premises; or
- (c) both. O. Reg. 66/54, s. 23 (1).

(2) Where the objects of a corporation are in whole or in part of a social nature, the letters patent or supplementary letters patent of the corporation shall contain the following:

And it is hereby ordained and declared that the corporation is prohibited from occupying and using a house, room or place as a club which, except for paragraph a of subsection 2 of section 168 of the Criminal Code (Canada), would be a common gaming house within the meaning of paragraph d of subsection 1 of the said section 168; and if it is made to appear to the satisfaction of the Provincial Secretary that the corporation purports so to use a house, room or place, these letters patent may be cancelled by and in the discretion of the Lieutenant Governor;

"And it is hereby further ordained and declared that if it is made to appear to the satisfaction of the Provincial Secretary that the premises occupied by the corporation are equipped, guarded or otherwise constructed or operated so as to hinder or prevent lawful access to and inspection of such premises by police or fire officers or are found fitted or provided with any means or contrivance for playing any game of chance or any mixed game of chance and skill, gaming or betting or with any device for concealing, removing or destroying such means or contrivance, these letters patent may be cancelled by and in the discretion of the Lieutenant Governor. O.Reg.29/56, s.5."

Another regulation was enacted in 1954 and is presently Section 24 of Regulation 61. It deals with memberships in a corporation without share capital the name of which includes the word "veteran".

"24.-(1) In subsection 2, "war veteran" means a person who served in the armed forces of any country while that country was in a state of war.

(2) Where,

- (a) the name of a corporation without share capital includes the word "veteran" or any abbreviation or derivation thereof; or
- (b) the objects of the corporation include the promotion of interests of war veterans,

the letters patent of the corporation shall provide that at all times at least 95 per cent of the members of the corporation shall be war veterans. O. Reg. 66/54, s. 24."

In July 1955 the policy as laid down in 1950 was amended to provide that incorporation would only be granted to social clubs where the club intended an immediate purchase of real estate and if the real estate was not acquired within six months the failure to do so would be a basis for cancelling the charter.

In December 1956 the policy as laid down in 1950 was again amended and as amended deleted the requirement with respect to real estate and erased the former policy under which the Department inquired as to the reasons why incorporation was desired. In this respect the amendments restored the policy prior to 195

At this stage in the development of departmental policy and regulations the social club charters then extant fell into two classes:

First, those in which letters patent had been granted prior to 1950, and second, those in which letters patent had been granted thereafter. In the former there was no limitation in the letters patent limiting the operations of the club to a particular address and accordingly supplementary letters patent were not necessary in order to enable the club to move its seat of operations from one place to another. In the latter supplementary letters patent were necessary before there could be such a change. Social clubs coming within the first class were being acquired by gambling interests and the site of operation was being moved from place to place in the Province. To plug that loophole the Corporations Act was amended in 1960 and the present Section 291 was enacted. It appears in Exhibit 4 in the appendix hereto but for greater convenience I quote it here. It is as follows:

"291. (1) Notwithstanding this or any other act or law, no corporation that has objects in whole or in part of a social nature, other than a club commonly known as a service club, shall change the location of any of its premises without the prior consent in writing of The Provincial Secretary".

That section came into effect on April 12, 1960, so that thereafter no incorporated social club could move the site of its activities from the place where it was operating when the amendment came into effect and removed the distinction between social clubs incorporated before and those incorporated subsequent to July 1, 1950.

In June 1961 the Departmental policy was changed and as changed required that the organization must have been in existence for at least one year before the letters patent incorporating it would issue.

CHAPTER VII

THE INCORPORATION OF SPECIFIC SOCIAL CLUBS
WITHOUT REFERRAL TO THE POLICE

It was not suggested that the law as laid down in The Companies Act and its successor The Corporations Act had not been complied with in the granting of letters patent incorporating any of these clubs.

The only other matter falling under the heading Incorporation Proceedings and Supplementary Letters Patent is the one of REFERRAL TO THE POLICE of applications therefor.

Some were so referred and some were not.

The following corporations were incorporated subsequent to January 1, 1950, without any referral to the police. (I have grouped them for reasons that will later herein become obvious).

Group A - Chipper Sales and Advertising Club
(Incorporated August 24, 1959)
Showmen's League of America,
Ontario Chapter
(Incorporated August 6, 1959)
Portuguese-Canadian Association
of Toronto
(Incorporated November 14, 1956)

Group B - Agincourt Lawn Bowling Club
(Incorporated August 31, 1954)
Chingwauk Camp Incorporated
(Incorporated June 10, 1954)
Grape Island Property Owners
Association
(Incorporated April 24, 1954)
Indian Point Property Owners
Association
(Incorporated February 12, 1957)

Local Union No. 35 U.A.W. Building Corporation

(Incorporated December 23, 1957)

Local Union No. 456 U.A.W. Building Corporation

(Incorporated March 31, 1958)

The London City Press Club

(Incorporated April 3, 1957)

Nepean Amateur Athletic Association

(Incorporated October 24, 1951)

The Noisy River Fishing Club

(Incorporated November 12, 1951)

Phelps & District Veterans Club

(Incorporated June 15, 1956)

The Red Lake District Golf Club

(Incorporated April 9, 1952)

Ryerson Institute of Technology Students Union

(Incorporated March 12, 1957)

Seaforth Curling Club Limited

(Incorporated February 8, 1957)

Social Club of Ireland (Toronto)

(Incorporated April 29, 1954)

Sudbury Yacht Club Limited

(Incorporated June 9, 1959)

Whitby Curling Club

(Incorporated June 4, 1958)

Windsor Curling Club

(Incorporated February 12, 1954)

Group C - Centre Road Veterans Association

(Incorporated July 5, 1957)

Roseland Veterans Association

(Incorporated July 5, 1957)

Frontier Veterans Association

(Incorporated July 5, 1957)

Group D - Club Macedonia

(Incorporated January 29, 1957)

Dealing first with GROUP A

Chipper Sales and Advertising Club:-

The Department of the Provincial Secretary certainly treated the objects of that proposed corporation as set out in the application as being "in part of a social nature" and Mr. Wintermeyer referred to it in his speech. To so classify it required an extremely wide interpretation of those words. The mere use of the word "club" did not make it a social club. In my opinion its objects were not of a social nature and accordingly there was no necessity for referring the application to the police.

Showmen's League of America, Ontario Chapter:-

This corporation is in fact a branch of an international service club known as the Showmen's League of America which is an association of persons engaged in the amusement field and the consent of that international association was filed with the application for the incorporation of the Ontario Chapter. Because it is a Provincial chapter of an international service club the policy of the Department with respect to referral to the police did not require the application to be referred to them.

Portuguese-Canadian Association of Toronto:-

The objects of the proposed corporation as set forth in the original application appear from the evidence to have been "to establish, maintain and

conduct a club for the accommodation, convenience and recreation of the members of the corporation and others; to afford the members of the corporation and their friends all the usual advantages, convenience and accommodation of a club". Plainly that application was for the incorporation of a club having objects of a social nature.

However, the powers conferred upon the corporation in the letters patent were

- (a) to promote the theory and practice of the principles of good citizenship;
- (b) to promote the learning of the English language and to assist the members of the corporation and others in obtaining suitable employment and accommodation;
- (c) to collect moneys by way of donations, dues or otherwise, and to hold and expend the same in furtherance of the objects of the corporation;
- (d) to establish, undertake, superintend or contribute to any charitable or benevolent fund from which may be made donations or advances to deserving persons; and
- (e) to co-operate with other organizations having objects in whole or in part the same as or similar to the objects of the corporation.

Having regard to those powers granted to the corporation it would appear to me that this corporation had philanthropic, educational and charitable rather than social objects. Curiously enough, however, the bars and bolts clause and the ten cents an hour prohibition were inserted in the charter. The insertion of those clauses did not make the corporation one having objects in part of a social nature. The determining factor is the objects of the corporation and they in turn are determined by the powers granted to the corporation by its charter.

Dealing next with GROUP B

While there was no particular criticism before me of the omission to refer those applications to the police, and while as it so happens I know some of the persons who are members of some of those clubs and they are thoroughly respectable persons and highly regarded in their communities, and notwithstanding that they and others associated with them may have been also favourably known by persons in the Department as thoroughly respectable citizens, in my respectful opinion those applications should have been referred to the police. In other words, if the Department has a policy by which all applications are to be referred to the police then that policy should be applied across the board without any distinctions unless there should be some departmental necessity for not doing so.

Dealing next with GROUP C

The corporations in this group certainly fall into a class by themselves. If those applications had been referred to the police there is not the slightest doubt that the reports would have been most unfavourable because those clubs had been thorns in the side of the police departments for years. Those clubs had been operating under Federal jurisdiction and I accept without reservation the explanation given on behalf of The Provincial Secretary and The Attorney General for granting them Provincial charters, viz. that they wanted to get them under Provincial jurisdiction, having in mind possible subsequent cancellation. Departmental necessity justified departure from the general policy.

Dealing lastly withCLUB MACEDONIA:-

There had been a charter issued under date March 21, 1950, incorporating a social club known as Macedonian Amusement Company Limited. That charter had been cancelled on November 23, 1950, following a conviction of two persons, by name Stephen Nicholson and Dan Kostoff, for keeping a common gaming house at 364 Queen Street East which was the address of the club premises. An appeal was taken to the Court of Appeal against that conviction and on February 13, 1951, the conviction was quashed. Nothing was done following that conviction until late in 1955 when representations were then made to The Provincial Secretary to the effect that since the conviction had been improper in the first instance the charter should not have been cancelled. In those circumstances the Minister directed that upon an application being made for a new charter to take the place of the old one which had been cancelled the application should be granted without a referral to the police. Such an application was then made and without it having been referred to the police a new charter was granted. That new charter was not a re-incorporation of Macedonian Amusement Company Limited but a new incorporation of a club with the corporate name Club Macedonia and the letters patent confined the operations of that new club, not to 364 Queen Street East, but to 425 Danforth Avenue in the City of Toronto. One of the purposes of a referral to the police was to advise them of the place where the club premises would be located so that they might examine and report on them.

This charter was therefore granted without The Provincial Secretary getting the customary report as to the club premises. Moreover, two of the three applicants were not directors of Macedonian Amusement Company Limited at the date of the cancellation of its charter. In my opinion the lapse of five years between the cancellation of the old charter and the application for the new one, the difference between the personnel of the directors of the former club and the applicants for the new charter, and the change in the address of the club premises required a referral to the police in accordance with departmental policy.

That is not the end of the story of Club Macedonia. The rest of the story could fit into this report later under another heading but it seemed to me to be more appropriate to fit it in at this stage.

Under date August 10, 1959, application was made for supplementary letters patent changing its address to 418 Queen Street East. The persons who appeared to have signed that application as officers of the corporation were William Kriss (sometimes spelled Chriss) and Josephine Flewman as president and secretary-treasurer respectively.

The annual returns filed in 1959, the certificate attached to which purported to be signed by William Kriss and was dated August 10, 1959, - the same date as the application bore, - showed William Kriss as president and one Audly Fennel as a director.

The application was referred to the Ontario Provincial Police and the Metropolitan Toronto Police Department.

The Ontario Provincial Police recorded no objections.

The report of the Metropolitan Toronto Police Department is dated November 3, 1959, and was sent in a letter to the Department dated November 5, 1959. In it strong objection was taken to the granting of the application for reasons therein set out. That report drew to the attention of the Department a number of facts:

First it was pointed out that the premises at 418 Queen Street East was a restaurant; that there had been a conviction on July 27, 1945, of a person, unnamed in the report, of recording and registering bets at 418 Queen Street East, (that unnamed person in fact was one Nicholas Tetsos); that one Daniel Kostoff had been convicted on January 25, 1951, of operating a common gaming house at 364 Queen Street East which you will recall was the former address of the Macedonian Amusement Company Limited, and sixteen found-ins also had been convicted.

Two of the applicants for incorporation of that company had been Kostoff and Steve Nicholson and Nicholson had been shown as manager of Club Macedonia in its 1959 annual returns. The association between Kostoff and Nicholson is obvious.

The second fact drawn to the attention of the Department in the Metropolitan Toronto Police report was this: That William Kriss and Audly Fennel had both been recently interviewed by the police and both had stated that they had never been affiliated with this or any other club and were unable to explain anything concerning its operations.

Thirdly, it was pointed out that Josephine Flewman had also been recently interviewed and stated that the club had been dormant and 425 Danforth Avenue had actually only been a mailing address. The supplementary letters patent while they bear date November 2, 1959, were not sent out from the Department until November 27, 1959.

Prior to the Metropolitan Toronto Police Department's written report there had been a number of telephone discussions between the Deputy Provincial Secretary and that department in which the police in that department had stated what their objections were. Prior to that written report the solicitors for the applicant in a number of telephone calls to the Deputy Provincial Secretary, as well as to his Minister, had been pressing for action and prior to that report also the Deputy Minister discussed the matter with his Minister and had pointed out to him the facts, I presume all of them, as later set out in the written report. Whether he did set them all out or not is perhaps unimportant because that report had been received in the Department of the Provincial Secretary more than two weeks before the supplementary letters patent were sent out.

The Deputy Minister was careful, obviously for his own protection, to place a memorandum in the file in which he wrote "I discussed the application for supplementary letters patent and the police reports with The Honourable Dr. Phillips who directed that the supplementary letters patent should be issued".

In the Brief filed with me by the Provincial Secretary it is said that the Minister exercised his

discretion in directing that the letters patent issue. In my respectful opinion the conclusion is irresistible that he did not exercise his discretion at all; he acted arbitrarily. The discretion vested in the Minister under the Act requires him to act in accordance with "the rules of reason and justice", "according to law and not humour". Here he appears, not to have considered the facts, but to have ignored them. The activities of this club and its predecessor had been shifted from 364 Queen Street East to 425 Danforth Avenue at which address it had become dormant and was now being shifted again to a new address at 418 Queen Street East. The record of the convictions at those two Queen Street East addresses, the association between the persons whom I have already named, the lack of any knowledge of the existence or operations of the club by persons who were shown in the returns as being directors make it abundantly plain to me that if the discretion required to be exercised by the Minister had in fact been exercised by him the application would have been refused.

I can complete the story of Club Macedonia now rather than waiting to do so later herein under another heading.

The charter was cancelled on December 7, 1961. The circumstances that led to the cancellation were as follows: On April 13, 1961, Steve Nicholson and William Dineff, managers of the club, appeared before Magistrate Thoburn charged with keeping a common gaming house at 418 Queen Street East. They pleaded not guilty and the charges against them were dismissed. On that hearing there was sworn evidence

that Dineff had stated to the arresting officer that the club had charged ten cents an hour or a maximum of fifty cents a day per person for playing cards. If that were so then it was a violation of a clause in the charter. That sworn evidence was later brought to the attention of the Deputy Minister and he caused notice to be sent to the club advising it that under Subsection 1 of Section 326 of The Corporations Act it was proposed to cancel the letters patent for cause. The corporation requested a hearing and the hearing was held on September 22 and it was determined that the evidence showed "sufficient cause" and the charter was cancelled accordingly.

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CHAPTER VIII

THE DISCRETION EXERCISABLE BY THE PROVINCIAL
SECRETARY

This whole matter of "discretion" has been discussed from time to time by judicial authorities and I cannot do better than refer to some of them.

In Sharp versus Wakefield, et al, 1891 Appeal Cases 173, Lord Halsbury at page 179 said this:

"'Discretion' means when it is said that something is to be done within the discretion of the authorities that something is to be done according to the rules of reason and justice and not according to private opinion....according to law and not humour. It is to be not arbitrarily vague and fanciful but legal and regular. And it must be exercised within the limit to which an honest man competent to the discharge of his office ought to confine himself".

In Liversidge versus Anderson, 1942 Appeal Cases 206, Lord MacMillan at page 253 said this:

"The Statute has authorized it to be conferred on a Secretary of State, one of the high officers of state who by reason of his position is entitled to public confidence in his capacity and integrity, who is answerable to Parliament for his conduct in office and who has access to exclusive sources of information. In a question of interpreting the scope of a power it is obvious that a wide discretionary power may more readily be inferred to have been confided to one who has high authority and grave responsibility".

In Pure Spring Company versus Minister of National Revenue, 1946 Exchequer Court Reports 471, Mr. Justice Thorson, President of The Exchequer Court of Canada, at page 490 said this:

"The governing principle that runs through the cases is that when Parliament has entrusted an administrative function involving discretion to an authority other than the Court it is to be performed by such authority without interference by the Court, either directly or indirectly. Where a person has been given jurisdiction to form an opinion and act accordingly the Court has no right to review such opinion or the considerations on which it was based; the accuracy of the opinion is quite outside its jurisdiction".

There are other judicial pronouncements concerning the exercise of a discretionary power but those to which I have just referred should suffice.

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CHAPTER IX

THE INCORPORATION OF SPECIFIC SOCIAL CLUBS AND SUPPLEMENTARY LETTERS PATENT ISSUED DESPITE UNFAVOURABLE POLICE REPORTS

FIRST - Those named in Mr. Wintermeyer's speech.

They are:

Bathurst-Sheppard Social and Athletic Club
Chinese Businessmen's Cultural Society
Apter Friendly Society Incorporated
The "25" Club.

I now deal with the evidence as given before me concerning each of them, limiting it, of course, in this part of this report to the portions thereof dealing with pre-incorporation proceedings.

BATHURST-SHEPPARD SOCIAL AND ATHLETIC CLUB, INCORPORATED

The report of the Chief of Police for Metropolitan Toronto dated November 17, 1959, was as follows:

"This Department will have no objection to the granting of this application providing the members concerned do not avail themselves of the provisions of Section 168, Subsection 2, of the Criminal Code".

The report from the Ontario Provincial Police was dated September 30, 1959, and was in part as follows:

"The applicants appear to be of good character and responsible persons. It is not likely that their intentions are to organize a gambling operation for gain. However, in view of the applicants' apparent lack of interest in athletics, the unorganized club activities, and their interest in gambling, this writer is opposed to the granting of letters patent".

In the exercise of the discretion vested in him the then Provincial Secretary authorized the granting of letters patent and they are dated November 20, 1959, and contain the prohibitive clause relating to Section 168, Subsection 2, of the Criminal Code.

CHINESE BUSINESSMEN'S CULTURAL SOCIETY

The letters patent incorporating this club are dated July 8, 1959, and limit the operations of the club to 180 Dundas Street West, Toronto.

The application was referred to the Metropolitan Toronto Police and their report per the Deputy Chief is as follows:

"I have no objection to the granting of this charter providing

- (1) that there is a clause inserted in the charter that the members cannot avail themselves of the privilege granted under Section 168, Subsection 2, of the Criminal Code of Canada.
- (2) that no gaming equipment or device be allowed on the premises".

The application was also referred to the Ontario Provincial Police which submitted two reports, the one dated May 27, 1959, the other June 1, 1959.

In the former it was said that the applicants had failed to show to the investigating officers of that force that the proposed club was in fact a cultural society and the reporting constable felt that, in view of this, consideration should be given to his opinion that while the equipment in the club premises would be suitable for gambling it was not possible for him to say whether illegal gambling would be conducted.

In the latter which was a report from the sergeant in charge of the Anti-Gambling Branch it was said that the premises at 180 Dundas Street West had formerly been occupied by a Chinese club which had moved from that address, so it was said, by reason of poor ventilation in the premises and the sergeant thought that if the premises were unsuitable for that former Chinese club they would likewise be unsuitable for the proposed club.

In the exercise of the discretion vested in him the then Provincial Secretary authorized the granting of the letters patent which contain the prohibitive clause relating to Section 168, Subsection 2, of the Criminal Code.

AFTER FRIENDLY SOCIETY

The application that led eventually to the granting of the letters patent was in 1959. There had been a prior application in 1951. That application had been referred to the City of Toronto Police and the Ontario Provincial Police. The granting of the charter had been opposed by both.

The officer reporting on behalf of the Toronto Police Department stated that none of the applicants were known to that department but he concluded his report by saying "I am very definitely opposed to the granting of any further charters to groups of this kind". The report from the Ontario Provincial Police was other than favourable, the reporting officer saying "While having nothing definite I am inclined to believe that this will be another gambling outlet for this city". That application was refused.

In the meantime the Association had carried on as an unincorporated body. The membership was limited to persons who came from the same area in Poland, and their direct descendants, and from that area this incorporated body derived its name. Its activities were philanthropic and social. It had acquired land in the vicinity of Newmarket, Ontario, for use as a cemetery for the burial of its members and their families and the title to that land was held in the name of trustees for the Association.

The new application was referred to the Ontario Provincial Police. The report from that department was exhaustive. Without quoting it in extenso I can summarize it as follows: The records of the Ontario Provincial Police Department and the Metropolitan Toronto Police Department had been searched and there was no record in either of those files with respect to any of the applicants; the president of the unincorporated organization was interviewed and he confirmed what I have already said with respect to the membership of the association and the cemetery owned and operated by it. He also

stated that the association had in its treasury at that time about \$5,000. A check was made elsewhere as to the president of the Association and from reliable sources it was reported that he was of good character and not inclined to gambling and the informant stated that he would be greatly surprised, having regard to the character of the president, if this club ever got into any trouble through gambling operations on the premises. There had been one member of the association who, it had been discovered, had a criminal record and following that discovery he had been expelled from the society and not allowed to return. A check was also made on the vice-president of the association and favourable reports had been received by the Ontario Provincial Police regarding his character and general reputation. A similar check was made on the secretary of the association and favourable reports received concerning him.

There had been some criticism by neighbours in the area of 214 Beverley Street where the activities of the association were carried on as to sanitary conditions. Apparently the members had not been sufficiently careful in the disposal of garbage. The City of Toronto Fire Department had been consulted and an examination of the premises from the standpoint of a fire hazard had been made. The Fire Department recommended two additional exits from the building, but otherwise that municipal department had no objection, nor had the Building and Development Department of the City of Toronto.

The reporting officer concluded his report by stating that he could see no reason why this

association should seek incorporation since they could attain their objects either with or without a charter.

The report from the City of Toronto Police Department stated that five of the members of the association had been convicted of gaming and betting. It was not suggested that the gaming or betting operations had taken place on the premises. The Chief Constable for the City of Toronto gave it as his opinion that two of those five members "are two of the most active bookmakers in the downtown area".

In the light of those police reports the Deputy Provincial Secretary recommended against the granting of the charter and it was the subject of some special discussions between himself and his Minister and between himself and the local member in the Legislature for the district in which the club premises were situated and in which a large number of the club members resided. The local member had reported that he had made relevant inquiries and was unaware of any reason why the application should be refused.

In the exercise of his discretion the then Provincial Secretary authorized the issue of the letters patent and they contained the prohibitory clause relating to Section 168, Subsection 2 of the Criminal Code.

The Press reports of the proceedings before me contained references to the evidence concerning this club which the officers of the club considered very adverse to it and as a result the treasurer of the club on the instructions of the members conferred with me and stated that in order to counteract that adverse

publicity he desired to give evidence, and he did. From his evidence it appeared that this club was carrying on its activities in a perfectly legitimate manner and the activities of the club since incorporation would appear to be without reproach.

THE "25" CLUB

In the application for incorporation of this club the applicants requested that the location of the clubhouse be named as at 45 Minnewawa Road in the Town of Port Credit. The application was referred to the Royal Canadian Mounted Police and they reported that a check of their records had been made and that they had no record of any of the persons named in the application.

The application was referred also to the Ontario Provincial Police and the reporting officer stated that all the applicants appeared to be of good character and the aims of the club legitimate. He did not oppose the granting of the charter but pointed out that the proposed location of the club premises would contravene a zoning by-law of the Village of Port Credit and he recommended against the granting of a charter that would authorize the clubhouse located at that address.

The application was also referred to the Chief Constable of the Village of Port Credit who reported that the applicants were all reputable citizens but he too pointed out that a clubhouse at that address would contravene a municipal by-law. The objection to the location of the club premises as set out in the police reports was communicated to the solicitor for the applicants who, after conferring with his clients, advised the Department that they were content that the

letters patent would prohibit the club from maintaining a clubhouse or similar premises and the letters patent dated March 28, 1961, were issued and contain that prohibition.

SECOND - In Appendix H to the Brief filed with me by The Provincial Secretary there is set forth a list of thirty-six corporations having objects in whole or in part of a social nature and which were incorporated subsequent to January 1, 1950, despite police reports that were adverse or not completely favourable. To that list could be added two more, namely University Club of Windsor and Azzanese Recreation Club, thus making thirty-eight in all. Of that thirty-eight I have already dealt with four which were specifically mentioned in that connection by Mr. Wintermeyer in his speech, and also with another one, namely Club Macedonia. Of the remaining thirty-three I can deal with twenty-four of them in one group. They are

- Albion Golf Associates Limited
- Algonquin Community Club
- Chau Luen Kon Sol Association
- Dart Coon Club of Toronto
- Essex-Kent Boys Golf Association
- Fleur de Lys Club
- The Independent Order of Goats
- Kratero Benevolent Association
- Leamington Roma Club
- Lebanese Canadian Club
- Le Cercle Canadian Francais de Toronto
- The Maltese-Canadian Society of Windsor
- Park Towers Club
- Peaceful Pacers Incorporated
- Peterborough Central Business Association
- Rhine-Danube Club

Toronto Negro Veterans Association

Ukranian Hethman Organization

Unmarried Peoples Association Limited

Windsor Choristers Athletic Club

Windsor Magic Circle

The Yacht Club of Port Credit

University Club of Windsor

Azzanese Recreation Club

I may say that in drafting my report in the first instance I dealt with each one of those twenty-four separately giving particulars as to objects, location and the reports made by the police. On reflection I concluded that this was not absolutely essential and by dealing with them as a group you would be spared reading a long dissertation about as drab and colourless as a National budget.

First, it may be taken that all those corporations have objects in whole or in part of a social nature

The objections of the police were varied and may be classified as follows:

- (a) Incorporation was unnecessary. The applicants could carry out the proposed objects just as effectively as an unincorporated association.
- (b) The application was premature.
- (c) The proposed location of the club premises offended a zoning or other municipal by-law.
- (d) There were inadequate parking facilities in the neighbourhood of the premises.
- (e) The application, if granted, would enable the corporation to apply for a club license under The Liquor Control Act.
- (f) There were too many clubs of that nature.

- (g) The club might and probably would be used for illegal gambling purposes.
- (h) There was dissension between the applicants and other church or ethnic groups.

There can be no doubt that all those reports were submitted by the police in a sincere effort to be helpful to The Provincial Secretary in a matter that unquestionably presented difficult problems for him and I have no doubt that the information thus supplied or the opinions expressed were gratefully received. However, The Provincial Secretary had to exercise the power of discretion vested in him. He could neither decline it nor delegate it. In dealing with all those applications I have to report that he exercised the discretion that by statute is vested in him. In Chapter VIII of this report I have dealt with the discretion exercisable by The Provincial Secretary.

THE REMAINING NINE CORPORATIONS LISTED IN
APPENDIX "H" TO THE PROVINCIAL SECRETARY'S BRIEF ARE

Chan Social Club
Chee Kung Tong
Italian Niagara Frontier Club
New Canadian Social Club
Somerset Club
Spadina Social and Card Club
Sun Sun Social Club
The Toronto Chinese Anti-Communist Club
The Toronto Chinese Athletic Club

CHAN SOCIAL CLUB

The letters patent incorporating this club were granted under date February 21, 1956. The application had been submitted to the police and there was no real objection by them.

In 1959 an application was made for supplementary letters patent and that application was opposed by both the Ontario Provincial Police and the Metropolitan Toronto Police and was refused. (I will be dealing at some length with this club later in this report under the heading Cancellation and its whole history will be therein set out).

CHEE KUNG TONG

This corporation was incorporated under The Benevolent, Provident and Other Societies Act on February 6, 1904. There was no evidence before me as to whether or not that application was submitted to the police.

The letters patent were cancelled on November 17, 1958, for failure to file annual returns.

On February 27, 1961, an application was made for an order reviving the corporation. That application was refused.

ITALIAN NIAGARA FRONTIER CLUB

This corporation was incorporated by letters patent dated December 6, 1949. The application was referred to the Niagara Falls Police Department and the report from that department stated that one of the applicants, naming him, had been convicted of

arson ten or twelve years earlier and served a prison sentence but that there had been no complaint against him since that time and the police department did not object to the incorporation. The application was also referred to the Ontario Provincial Police Department and it had no objection to the incorporation.

NEW CANADIAN SOCIAL CLUB

This corporation was incorporated by letters patent dated June 5, 1945. There was no viva voce evidence given before me as to whether or not the application for incorporation had been referred to the police but a search of the file in the Department of The Provincial Secretary seems to indicate that there had been no referral to the police.

SOMERSET CLUB

This corporation was incorporated by letters patent dated January 22, 1936. There was no viva voce evidence before me as to whether or not the application for incorporation had been referred to the police but a search of the file in the Department of The Provincial Secretary seems to indicate that there had been no referral to the police.

(I will be dealing at some length with this club later in this report under the heading Cancellation and its whole history will be therein set out).

SPADINA SOCIAL AND CARD CLUBFirst - Incorporation

The application for incorporation is dated February 18, 1949. Two of the applicants were persons by name Slater and Slateroff. They were brothers but the former had changed his name for business reasons. The application was referred to the City of Toronto Police Department and in its report it strongly recommended against the granting of letters patent. It stated that Slater had been interviewed by a member of the Toronto Police and stated that he had been approached by three men, apparently friends of his, by name Jack Shapiro, David Yakubowitz and Louis Geller and asked by them if he would act as president of the club and he agreed. The report went on to say that Slater appeared to be a perfectly legitimate business man and had strongly emphasized to the investigating officers that if the club should not be operated in a proper manner he would withdraw from any participation in it. That report was communicated to the then Provincial Secretary.

If, as the report stated, Slater was a perfectly legitimate business man and sincere in his statement that so far as he was concerned the club would be operated in a proper manner it appeared strange, no doubt, to the Minister that he would lend his name as a front for other persons. The Minister, in my respectful opinion quite understandably, then instructed the Deputy Provincial Secretary to personally interview both Slateroff and Slater and he did so. They both insisted to the Deputy Provincial Secretary that none of the three persons named in the police report had approached them. Slater indicated that in

his opinion there was a need for such a club in that section of the City of Toronto for persons engaged in the industrial life of the city there, particularly those engaged in the garment manufacturing industry which is centred in that particular area. He stated that he would be the president of the club and his brother the manager.

During the proceedings before me apparently no one thought to inquire whether or not the application had also been referred to the Ontario Provincial Police but in the file of The Provincial Secretary's Department there is no record of any adverse report from the Ontario Provincial Police.

The Deputy Minister reported the result of his interview with Slater and Slateroff to the then Provincial Secretary who, in the exercise of his discretion, directed that the letters patent should issue and they did issue and are dated April 21, 1949. By them the activities of the club were limited to 163½ Spadina Avenue.

In my opinion nothing in the history of this club up to this point reflects adversely on the Department of The Provincial Secretary.

Second - Supplementary Letters Patent

By the original letters patent the operations of the club were restricted to 163½ Spadina Avenue. In August, 1957, the corporation applied for supplementary letters patent authorizing it to

carry on its operations at 560 King Street West.

The application was referred to the Metropolitan Toronto Police Department and the Ontario Provincial Police.

The report of the Metropolitan Toronto Police Department is dated August 26, 1957. It is in part as follows:

"An officer from the Morality Division interviewed Mr. Thomas Clooney, President, and Mr. Sam Klein, Director, an associate of Toronto Taxicab Limited, owners and occupiers of the premises situated at 560 King Street West, on August 20th, 1957. This premise is a two storey detached building situated at the rear of a large gasoline and service station operated by the Co-operative. The main floor of the building houses offices and repair shops of the Co-operative while the second floor contains a large recreation room and restaurant facilities. The men were engaged in playing cards at the time of the investigation. Mr. Clooney advised the officer that the second floor was leased by the company to the St. Patrick Recreation Club and that he had received no notice that the Spadina Social and Card Club was taking over the lease. Any such application would have to be passed by the Board of Directors of the Co-operative.

Investigations were conducted at 163½ Spadina Avenue. It was learned that the premises formerly occupied by the Spadina Social and Card Club had been taken over by the Army, Navy & Air Force Club in 1951."

(That would be two years after the letters patent had been issued and by which the operations of that club were confined to that address).

The Ontario Provincial Police under date September 9, 1957, submitted a report to the Provincial Secretary dated September 5th. The report of September 5th consisted of two documents, the one a lengthy report by Constable George Scott, the other a report by Corporal Shrubbs to Sergeant Anderson. Constable Scott's report was as follows:

" On the dates of September 3rd and 4th, 1957, this writer conducted an investigation with respect to the marginally-noted application. Due to unusual circumstances which surround this Charter, only one person connected with it was interviewed, namely, Allen GREENBERG, 99 Searle Avenue, Toronto, Age 45, Married. Mr. Greenberg is a taxi owner.

Mr. Greenberg stated that the objects of the Club were to make available to taxi drivers facilities for playing darts and cards, in addition to the operation of a snack bar. A. Greenberg also stated the club was now in operation under the marginally-noted Charter and rates of 10 cents per hour with a maximum of 50 cents per day were being charged for card playing - this despite the fact that the request for supplementary letters patent has not yet been approved. At the present time there is no executive and Mr. Greenberg is managing the club. The suggested membership dues are \$1.00 per year. The activities of the club have been conducted since November 1956.

The new location of the Spadina Social and Card Club is in the upper storey of a detached building situated at 560 King Street West, Toronto. This building is owned and occupied by the Associated Toronto Taxi Co-operative Limited. The portion of the premises occupied by the Club has been renovated and newly furnished by the Co-operative. The furnishings of the club rooms include tables and chairs, cigarette machine, soft drink machine and a snack bar. At one end of the premises is located a room approximately 15' x 9' - One wall of this room is composed of a half wall extending approximately 4' from the floor and from that point to the ceiling is heavy wire screen. Access to this room is gained through a half door located on the side of the room made up of the screening and half partition. In this room are several tables and chairs, also an oval poker table. Although Mr. Greenberg stated this room would be closed off and made into an office, this writer is of the opinion that this room could be described as a gaming room and, if desired, access to it might easily be restricted. The club has a one year lease on the club rooms with a four year option. They will pay the Co-operative a rent of \$150.00 per month. The Club will operate

"independently of the Co-operative. The membership of the Club includes approximately 350 cab drivers who are members of the Co-operative.

The Spadina Social and Card Club which, when in operation, was situated at 163 $\frac{1}{2}$ Spadina Avenue, was in no way connected with the welfare and entertainment of taxi drivers. The concessions of the Charter have apparently not been utilized since 1953. In some way, Mr. Greenberg and associates have acquired this Charter and have seen fit to substitute the Spadina Social and Card Club Charter for the St. Patrick's Recreational Club Charter under which the activities of taxi drivers had been conducted.

Mr. Thomas E. Toney, President of the Associated Toronto Taxi Co-operative Limited was interviewed with respect to this matter. Mr. Toney was very helpful and made available to me the minutes of the general meetings of the Co-operative in which is recorded the motions authorizing the installation of the Social Club and, further, the change of Charter. Throughout the minutes of the Co-operative, Mr. Greenberg's name often appears as the person instigating the forming of such a Club. It was further learned that Mr. Toney was displeased with the terms of the lease, in that the renovation and furnishing of the Club rooms cost the Co-operative \$5000.00 and he felt that the rent was not sufficient to give them a fair return. When Mr. Toney was questioned with respect to illegal gambling taking place on the premises, he stated that although the Co-operative would have nothing to do with the operation of the Club, they would make it their business to see that the Club operated within the law.

It is the belief of this Branch that the individuals connected with this Club were behind the application for incorporation under the name of the Metro Social and Athletic Club received by this Department, February 21st, 1957. This application was abandoned due to failure in obtaining suitable premises. Subsequently this Department did not carry out the usual investigation.

In view of the following -

- (a) the impossibility of interviewing the future executive of this Club (which at this time does not exist)
- (b) the screened enclosed portion of the premises as mentioned in paragraph 3 of this report
- (c) the vague explanation of the acquirement of the Spadina Social and Card Club Charter -

I feel that the request for supplementary letters patent should be opposed.

Respectfully submitted,
 (Signed) Geo. Scott
 Prov. Constable
 Geo. Scott #2676

"With reference to report submitted by Provincial Constable G. Scott and memorandum by Corporal W.J. Shrubbs, attached, I do not think that the Letters Patent should be granted.

(Signed) J.M. Anderson
i/c A.G. Branch

J.M. ANDERSON, Sgt.

Toronto Ontario
September 9, 1957"

Under date September 30th the Ontario Provincial Police forwarded to the Provincial Secretary a further report of Constable George Scott dated September 26th. It is as follows:

" On the dates of September 23rd and 24th, Provincial Constable J.W. Moore and this writer conducted further investigation with respect to the marginally-noted. Of the three persons stated to be on the Executive of the Club, two were interviewed and are as follows -

1. Mr. William STONE, 111 Markham Street, Toronto, Ontario. Age 40. Married. Mr. Stone is Proprietor of the Parkside Cigar Store, 1616 Bloor Street, West. He is the President of the Club. (The address provided for Mr. Stone as of March 31/57 was 342 Queen Street West. Investigation reveals this to be a business address of which the owner states that Stone has had nothing to do with it for some time prior to that date - a fact which will be further stated later in this report.)
2. Mr. John SLOTEROFF, 1401 Eglinton Avenue, West, Toronto, Ontario. Age 53. Married. Mr. Slotteroff is employed as a salesman with Hughes and Company, Cloth Finishers, Toronto. He is a past Secretary-Treasurer of the Club.
3. Mr. Thomas DAVIS, described as Vice President of the Club in the information provided this Branch from the office of the Deputy Provincial Secretary, could not be located by this writer. Although his address, in the Club's returns for the period ending March 31/57, to the Deputy Provincial Secretary's office, was outlined as $\frac{1}{2}$ Major Street, a check at that address revealed he had left the premises several years ago.

" Mr. Slotteroff, when interviewed, stated he had resigned from the Club Executive in July 1956 and that the reason for the change of club rooms was that a fire had forced the Club from their premises at 163½ Spadina Avenue approximately 3 years ago. He further stated the membership of the club would include some of the old members and the taxi drivers who were located at the Associated Toronto Taxi Co-operative Ltd., 560 King Street, West. When asked if the Club had been functioning during the last few years, he replied "No" and added that certain members had held meetings. He also explained that this Club had originally been formed for the recreation of persons engaged in the clothing and garment industry in the Spadina Avenue and Queen Street area.

From Mr. Stone it was learned that the Spadina Social and Card Club has not been active for approximately 4 years. W. Stone stated the last meeting of the Club took place in either April or May, 1956. At that time there was an election of Officers and, as there was no one interested in the office of President, the accepted nomination and was elected. He further added that, following the installation of the Charter at the new address, he would resign his position, because he was no longer interested in the management of the Club. At this meeting Allen Greenberg, who is mentioned in the first report on this matter, was elected Secretary-Treasurer (a position which was declared to be held by John Slotteroff on the return filed March 31/57). It was also learned from Mr. Stone that Allen Greenberg and several others had attempted to incorporate a Club but, being unsuccessful, had resorted to obtaining the Charter in question. When asked as to the assets of the Club, W. Stone replied "I imagine there are a few bucks kicking around". When questioned about illegal gambling being conducted by the Club, he replied that there would not be such. Mr. Stone reiterated J. Slotteroff's statement that a fire at 163½ Spadina Avenue had curtailed the Club's activities, approximately four years ago.

A check at the Identification Branch of the Metropolitan Toronto Police Department was made and, as a result, it was found that William Stone, in the year 1940, was charged with fraud. This charge was dismissed. When interviewed, Mr. Stone denied he had ever been charged with a criminal offence but, upon being shown proof of such, he readily admitted it. A further check was made at the Ontario Department of Reform Institutions where there was no record on either of the two interviewed persons.

This Department is advised by the Morality Branch of the Metropolitan Police Department that, on March 14th, 1955, a Warrant to Search in connection with 'Obscene Literature' and 'Bookmaking' was executed at the Parkside Cigar Store, 1616 Bloor Street, West. At this time a person by the name of William Stone was in charge of the premises.

"Thereafter, two more warrants were executed at the premises but, on each occasion, there was not enough evidence to warrant charges. As in the first instance - one, William Stone, was the person in charge of the premises in the succeeding investigations.

District Chief Mason of the Toronto Fire Department was contacted with respect to the statements made by the interviewed persons concerning a fire affecting the premises at 163 $\frac{1}{2}$ Spadina Avenue. From Chief Mason it was learned that, covering the period 1953 and 1954, there was one fire at the rear of the premises and it resulted in damages of \$25.00.

It is evident that, throughout this investigation, the persons interviewed have not hesitated to make false statements i.e., in paragraph 2 of the first report, Mr. Greenberg, in September 1957, said there had been no election of Officers and then, in direct contradiction, Mr. Stone, interviewed September 24/57, stated that Mr. Greenberg was elected Secretary-Treasurer at a meeting in April or May, 1956. Furthermore, District Chief Mason states the only fire at 163 $\frac{1}{2}$ Spadina Avenue, in the years 1953 and 1954, took place in 1954, at the rear of the said premises, causing damage of \$25.00. It therefore can be assumed that such a fire would not have the effect of disrupting the Club's activities as stated previously in this report by the interviewed persons. The facts disclosed in this report indicate that the character of Mr. Stone, despite the absence of a conviction of a criminal offence, leaves much to be desired of a person holding office in a Chartered Club.

In view of the information contained in this report, plus the facts set forth in the first report, I feel that the petition for Supplementary Letters Patent should be opposed.

Respectfully submitted,

(Signed) George Scott

Geo. SCOTT #2676

From Provincial Constable Scott's report it is quite evident that there are too many discrepancies in the information supplied by the applicants - I would therefore strongly support his opinion that the Letters Patent be not granted - for your information, please.

Toronto, Ontario
September 27, 1957.

(Signed) J.M. Anderson
i/c A.G. Branch

J.M. ANDERSON "

According to that report William Stone told the police that Allen Greenberg had been elected Secretary-Treasurer in April or May 1956. The annual return for 1956 filed with the Provincial Secretary's Department showed that John Slateroff was Secretary-Treasurer in 1956. It is clear from those police reports that this club which in the first instance was to be for the benefit of those engaged in the garment industry was now being converted into one for the benefit of taxi drivers at the headquarters of the taxi company.

The application for supplementary letters patent was refused and the Deputy Provincial Secretary so notified the solicitors for the corporation by letter dated December 2, 1957.

From the evidence it is clear that the next thing that happened was that one of the solicitors for the corporation conferred with the Minister who following that conference directed that the supplementary letters patent should issue and they did and were dated December 19, 1957.

It is said that the Minister having exercised the discretion vested in him that is the end of the matter. I entirely disagree. It is crystal clear from the Ontario Provincial Police reports that the original members of this club had practically abandoned it and the premises originally occupied by it had been taken over by the Army, Navy and Air Force Club. Greenberg who had acquired control of the charter had in violation of the terms of the charter moved the operations of the club to 560 King Street West. If Greenberg was secretary in 1956 then the annual returns made in March 1957 contained a misstatement of the facts. In my respectful opinion the

reports of the police, - and they were not opinions but facts, - bristled with reasons why this application should not have been granted.

On October 23, 1959, one Joseph Tripodi was convicted of keeping a common gaming house on the premises at 518 King Street West and selling lottery tickets. That conviction was reported to the Department of The Provincial Secretary in December, 1959, or early in January, 1960, and the charter was cancelled on April 21, 1960.

_____ " _____ " _____

SUN SUN SOCIAL CLUB

This corporation was incorporated by letters patent in 1941 and the activities of the club were limited to 92 Elizabeth Street in the City of Toronto. The application was referred to the Ontario Provincial Police Department and the report from it was favourable.

The application for incorporation was referred to the City of Toronto Police Department and was unfavourable. It stated that two of the applicants had been interviewed and from their interview it appeared that they were not particularly interested in the club and Inspector Lee of that department stated that in his opinion those two men were fronts for members of the Chinese gambling fraternity. He also stated that there had been convictions of persons for illegal gambling at 92 Elizabeth Street and that in his respectful opinion

there were too many club charters already existing among the Chinese fraternity. I draw your attention to the fact that the policy of the Department at that time was to refer applications to the police for the purpose of ascertaining whether or not any of the Club's sponsors had a police record in connection with the operation or frequenting of gambling resorts.

In granting the application notwithstanding the adverse report of the City of Toronto Police Department the Provincial Secretary's Department seems, it would appear to me, to have complied with the then existing policy.

(I will be dealing at some length with this club later in this report under the heading of Cancellation and its whole history will be therein set out).

———— " ————— " —————

THE TORONTO CHINESE ANTI-COMMUNIST CLUB

THE TORONTO CHINESE ATHLETIC CLUB

It is convenient to group these two clubs together.

First - Incorporation

The application for letters patent of the first of these two clubs was dated February 23, 1953, and it stated that the club premises would be located at 100 Elizabeth Street in the City of Toronto.

The application for letters patent of the second of these clubs was dated April 23, 1953, and the club premises were to be located at 21 Elizabeth

Street in the City of Toronto. Elizabeth Street is in a downtown area in the City of Toronto in which there is a concentration of Chinese people. Both applications were referred to the Royal Canadian Mounted Police, the Ontario Provincial Police and the City of Toronto Police Departments. The Royal Canadian Mounted Police reported that it had no objection to the incorporation of either club.

The Ontario Provincial Police and the City of Toronto Police Department both reported unfavourably with respect to both proposed clubs and for substantially the same reasons, namely that there seemed to be a close affiliation between the members of the one club and the members of the other, that they were suspicious that both clubs would develop into gambling clubs, that the Toronto City Police had previously experienced some difficulty with other Chinese clubs in the area that had developed into gambling establishments.

Both these applications were apparently discussed by the Deputy Minister with the then Provincial Secretary and from correspondence in the files of The Provincial Secretary's Department it appears that in the opinion of the then Minister it would not have been proper to discriminate as between one group of Chinese and other groups who already had charters for social clubs and were operating in the area.

The letters patent incorporating each of the clubs are dated April 23, 1953.

In my opinion nothing in the history of these clubs up to this point reflects adversely on

The Provincial Secretary.

Second - Supplementary Letters Patent

Under date of May 7, 1959, the Toronto Police reported to The Provincial Secretary's Department a prosecution in respect of the premises occupied by the Toronto Chinese Anti-Communist Club. The charges had been dismissed but the police pointed out that the evidence disclosed two things:

- (1) that there had been gambling on those premises during which money had passed from some of the members participating to the President of the club but the police were unable to prove that there had been a rake-off and it was suggested from some source that the money that had passed to the President would be paid back to those who had paid it under some circumstances that I do not quite understand from the evidence.
- (2) that gambling paraphernalia had been found on the premises, which fact was in violation of the prohibitory clause in the charter to which I earlier drew your attention. That fact made the charter for the Chinese Anti-Communist Club liable to cancellation.

It is not without significance that although this report is dated May 7th according to the evidence it was not received in the Department until May 12th. Before that report had been received in the Department the lawyer representing the accused in the prosecution conferred with the then Provincial Secretary, Dr. Phillips, not only with respect to the Toronto Chinese Anti-

Communist Club but also with respect to the Toronto Chinese Athletic Club and I cannot do better than quote the memorandum given to the Deputy Provincial Secretary by Dr. Phillips dated May 11th, 1959. It is as follows:

"There were two charters issued by this Department for Chinese clubs in 1953, namely Toronto Chinese Anti-Communist Club and Toronto Chinese Athletic Club. I understand that you have suspended or cancelled the charter of each of these clubs".

(That was not the fact. They had neither been suspended nor cancelled)

"I visited the premises of these clubs along with their solicitor, Mr. T.B.Horkins, Q.C., and found two or three rooms with only a few small tables and chairs where no doubt some form of gambling was carried out but Mr. Horkins said that when the police walked in there happened to be on one table change amounting to less than a dollar. I promised Mr. Horkins that I would get all the facts from you and if they were not of a serious nature the charters should be reinstated immediately.

Kindly take into consideration that our laws are not well written in that if police officers walk into a place where they know full well that gambling is going on but there is no money visible they walk out again but if there is even a five cent piece on the table they may issue a charge, and you and I know very well that there isn't a back room in any Chinese place of business or club where they do not carry on some gambling game.

I am most anxious to have these two clubs reinstated within a week".

Under date of May 12, 1959, apparently after the police report had been received in The Provincial Secretary's Department the Minister gave this memorandum to the Deputy Minister:

" I could not reach you tonight and I have assured Mr. T.B. Horkins, Q.C., who fought the case in Court, that since the magistrate dismissed the case and made no charges that these clubs would be reinstated.

Would you kindly carry out this procedure".

Under date May 20th the Minister gave this memorandum to the Deputy Minister:

" I was talking to The Honourable Prime Minister late last night and he advised me to delete on the Chinese charters that there be no gambling paraphernalia on the premises".

Under date May 22nd the Deputy Minister gave to the Minister this memorandum:

"Re Toronto Chinese Anti-Communist Club and Toronto Chinese Athletic Club:

I refer to your memorandum of May 20th advising that the Honourable Prime Minister advises that there be deleted from charters dealing with the Chinese clubs the clause to the effect that there be no gambling paraphernalia on the premises.

Ten years ago the Mayor of Toronto, the Police Commission and a number of members of City Council and the Chief of Police attended on the Prime Minister in respect to the issuance of club charters. At that time it was adopted as departmental policy that the following clause should be included in the letters patent of all clubs, namely..."

(The memorandum then set out the bars and bolts clause and the paraphernalia clause and continued)

" Accordingly this clause has been included in the charter of each club that has issued in the last ten years and it appears in the charters of the two Chinese clubs in question. In other words it was not a special clause imposed on these two particular clubs but is a clause that is common to all club charters.

Further, this clause is now required under the regulations passed under the Corporations Act 1953 to be included in all club charters. Therefore in order to delete the clause in question it would be first necessary to amend our regulations to delete from the above clause that it is an offence to keep gambling paraphernalia to which end I have drafted a regulation which I am attaching hereto. When this regulation is passed the two clubs would then be in a position to make application for supplementary letters patent to delete the gambling paraphernalia clause".

The regulation was not changed and indeed is still in effect.

The Deputy Minister in his evidence before me stated that in addition to giving the Minister the written memorandum on May 22nd he subsequently discussed the matter with the Minister reiterating what he had pointed out in his memorandum.

On June 4th, 1959, the Minister telephoned the Deputy Minister who for reasons that must be obvious made a memorandum for the purposes of the record and inserted it in the file and it is as follows:

"Dr. Phillips telephoned me this morning and directed that the clause respecting the restriction on gambling paraphernalia in the charters of the two above clubs be deleted without application being made therefor.

Before carrying out the instructions of the Minister the Deputy Minister again went to the Minister and tried to explain again that what the Minister was requiring him to do was contrary to the regulations but according to the Deputy Minister the Minister simply said to carry out the instructions which he had earlier given. Accordingly supplementary letters patent were issued to each of those clubs without the prohibitory clause being contained therein as required by Section 23 of Regulation 21 and without in fact any applications being made for supplementary letters patent".

Returning now to the memorandum from the Minister to the Deputy Minister dated May 20th in which he stated that he had been talking to the Prime Minister who had advised him to delete those clauses from the charters, the then Prime Minister, Mr. Frost, gave evidence before me and he denied ever having given such advice or instructions to Dr. Phillips. Without any hesitation I accepted that evidence. That he should have given such instructions was entirely inconsistent with these facts:

- (1) At the time of the conference between Mr. Frost, the Mayor of Toronto, the Police Commission and the members of the City Council

and the Chief of Police back in 1950 referred to in Mr. Cudney's memorandum to Dr. Phillips Mr. Frost himself had prepared the original draft of that regulation.

(2) That regulation and like matters had been discussed and led to the establishment of a Commission known as the Gordon Commission which had been set up by the Prime Minister to consider, inter alia, what were said to be arbitrary powers vested in governmental bodies with no right of appeal against their decisions. That Commission was still functioning in May, 1959. Its report was not filed until September 25th of that year. I cannot conceive of the Prime Minister taking it upon himself to give the instructions which Dr. Phillips said had been given to him on May 19th while that very matter and similar matters were under consideration by the Gordon Commission.

(3) On July 16th Dr. Phillips presented to the Cabinet a draft of a new regulation from which was omitted the paraphernalia clause contained in Section 23 of Regulation 61 and recommended its enactment. That recommendation was rejected by the Cabinet on July 30th. It is abundantly clear that Dr. Phillips had developed an antipathy toward the provisions contained in Section 23 of Regulation 61 insofar as it dealt with gambling paraphernalia, and under date July 31st, 1959, which was the day after his draft regulation had been rejected by the Cabinet we find him writing to the Prime Minister with respect to another Chinese club, by name Chan Social Club. That

club had applied for supplementary letters patent to change its name and the location of its premises. That application was referred to the Ontario Provincial Police and to the Metropolitan Toronto Police Department both of whom strongly objected to the issue of the supplementary letters patent and recommended the cancellation of the charter on the ground that the club was conducting a common gaming house. They pointed out that the club was violating the prohibitory clause in its charter.

Without going further into the contents of that letter it will suffice if I simply quote the last paragraph. It is as follows:

"I am bringing this matter to your attention for your advice as to whether or not the charter should be cancelled and as to whether or not supplementary letters patent should be issued".

In writing the letter the Minister was trying to place the problem on the doorstep of the Prime Minister instead of disposing of it himself. In his evidence before me Mr. Frost stated that he could not understand why the Minister would be writing such a letter to him and he further stated that he had no recollection of having received it. It is reasonable to assume that if he had received it he would have replied to it in writing and the file contains no reply.

The present situation is that these two clubs now have charters that do not comply with Section 23 of Regulation 61 and as yet nothing has been done about it.

So far as the Toronto Chinese Athletic Club is concerned there was no evidence before me that at any

time subsequent to incorporation there was
sufficient cause for cancellation of its charter.

_____ " _____ " _____

S U M M A R Y

I have now covered all the evidence relating to Incorporation Proceedings and I report as follows: -

Under this heading I include both original Letters Patent incorporating social clubs and Supplementary Letters Patent granted subsequent thereto.

With respect to both, the laws of the Province as laid down in The Companies Act and its successor The Corporations Act have, in all instances that came to my attention, been complied with.

The Regulations and the declared policy of the Department of The Provincial Secretary have not in all instances been complied with.

I The Regulations:

Supplementary Letters Patent were granted in two instances in violation of Regulation 61, and without even an application therefor. I have dealt with both, viz. The Toronto Chinese Anti-Communist Club and The Toronto Chinese Athletic Club.

II The declared Policy of the Department as to referrals to the Police on applications of incorporation and Supplementary Letters Patent

There were twenty-one applications that were not referred to the police (see Chapter VII). In seventeen of them (Group B in Chapter VII) my criticism is that they should have been referred notwithstanding that there was no probability of an adverse report with respect to any of them but the policy should nevertheless have been

applied across the board.

There was one, viz. Club Macedonia, which was incorporated without any referral to the police and later supplementary letters patent granted notwithstanding an adverse report including a recommendation for cancellation. The Provincial Secretary would appear to have simply ignored that adverse report.

There were three applications granted that fell into a class by themselves and in which there were no referrals to the police prior to incorporation, viz. The Centre Road Veterans Association, The Frontier Veterans Association and The Roseland Veterans Association. I absolve the Provincial Secretary from any mal fides in granting those charters without referral.

In the case of Spadina Social and Card Club, supplementary letters patent were granted notwithstanding strong adverse police reports, in the face of which it is impossible to hold that the Minister properly exercised the discretion vested in him.

There were other applications for incorporation and for supplementary letters patent granted despite adverse police reports but the Minister exercised the discretion vested in him and I have no criticism.

P A R T F I V E

CANCELLATION OF SOCIAL CLUB CHARTERS

CHAPTER X

THE LAWS AND REGULATIONS RELATING TO CANCELLATION

The first term of reference in the Commission issued to me involves not only the incorporation of Social Clubs but also cancellation of letters patent. In dealing with that latter subject I should direct your attention first to the statutory provisions specifically covering it and also the statutory provisions related to it; and secondly to the policy of the Department in connection with it.

"A"

CANCELLATION FOR "SUFFICIENT CAUSE"

Section 326 (1) of The Corporations Act (see Exhibit 4 in the Appendix) empowers the Lieutenant Governor, by order, to cancel the letters patent of a corporation and declare it to be dissolved upon "sufficient cause" being shown, and

Subsection (2) empowers him to do the same where the corporation is in default for a period of three years in filing its annual returns and after notice of such default has been sent to the directors and published in The Ontario Gazette.

The Corporations Information Act, the relevant portions of which I have set out in full in

Exhibit 5 in this Appendix hereto, requires the corporation to file its annual returns by June 1st in each year.

Section 3 (1) specifies the contents thereof.

Section 3 (3) requires the return to be certified by a certificate of the President or in his absence a director.

Section 3 (6) creates an offence for default in filing and prescribes the penalty.

Section 3 (8) creates an offence for making a false statement in the return and prescribes the penalty.

Section 4 empowers the Provincial Secretary to require a corporation to file a special return and creates an offence for default in so doing and prescribes the penalty.

Section 6 empowers The Lieutenant Governor in Council to make certain regulations concerning the returns.

So far as was made to appear before me only one regulation has been passed under that Act or its predecessor The Companies Information Act. That was one passed in February 1962 and known as Regulation 28/62. It is as follows:

"1. Notwithstanding subsection 1 of section 3 of the Act the information to be contained in an annual return is specified as follows:

1. Where the objects of a corporation are in whole or in part of a social nature, the annual return shall state the address of the premises of the corporation, giving the street and number, if any, and, where the corporation was incorporated on or before the 11th day of April, 1960,"

(that being the date upon which section 291 of The Corporations Act supra was passed)

"the address of its premises on that date, giving the street and number if any".

That amendment would apply commencing with the return to be filed as of March 31, 1962. The effect of that amendment was to enable the Department merely by looking at the 1962 return to determine whether or not subsequent to April 11, 1960, there had been a change in the address at which the club was carrying on its activities and, by comparing each subsequent annual return with the one immediately before it, to determine whether or not during that period there has been a change in the address at which the club was carrying on its activities.

"B"

CANCELLATION FOR FAILURE TO FILE ANNUAL RETURNS

Section 29 (2) of The Companies Act, which you will recall was in effect until 1954, was as follows:

"(2) The letters patent may be cancelled by order of the Lieutenant Governor in Council if it appears that the corporation is in default for a period of one year in filing the annual returns, and that notice of such default has been sent by registered mail to each director of record in the Department of the Provincial Secretary to the latest address stated therein, and that such notice has been inserted once in The Ontario Gazette".

Section 325 (2) of The Corporations Act which came into effect in 1954 and which I have set out in full in Exhibit 4 in the Appendix hereto differs from that section in two important respects: First - the power to cancel is vested not in The Lieutenant Governor in Council but in The Lieutenant Governor; second, the period of default is three years, not one.

CHAPTER XI

THE DEPARTMENTAL POLICY WITH RESPECT TO
CANCELLATION OF LETTERS PATENT FOR "SUFFICIENT CAUSE"

This policy as developed over the years is set out in Chapter IX of the Brief of The Provincial Secretary filed with me. He thought, in my opinion quite properly, that it was of sufficient importance to be placed before me, not that I was authorized by my Commission to inquire into it but that it should be made to appear what that policy was. I shall try to condense it.

Prior to 1946 the policy was and still is to treat as "sufficient cause" either a conviction for an illegal act committed on the club premises or strong evidence of illegal gaming thereon even where there was not a conviction.

Experience proved that policy to be inadequate. The evidence necessary to justify a conviction and indeed any evidence of illegal gaming usually was obtainable only by having an undercover agent on the premises or by a raid that carried the element of surprise. A raid was useless unless the police were able to obtain immediate access. Such access was impeded by bolts and bars and other contrivances and by the time the police got into the premises all evidence of illegal gaming had been cleared away.

In August 1946 the departmental policy with respect to incorporation was changed by including in the letters patent the "bars and bolts" clause which I have earlier herein set out. Thereafter violation of that clause was considered to be "sufficient cause".

You will recall that I earlier pointed out that in February 1948 there was a change in departmental policy by virtue of which a special clause might be placed in a charter prohibiting the corporation from using a premises to which subclause (b) of Section 226 (now Section 168) of the Criminal Code would apply. The effect of this clause was that the corporation was prohibited from charging any fee for the right or privilege of participating in games played on its premises. Thereafter violation of this clause was considered to be "sufficient cause" but like the evidence of illegal gaming evidence of such violation was difficult to obtain.

FORFEITURE OF CORPORATE powers is something less than cancellation but closely related to it. By forfeiture is meant the loss, sometimes by way of penalty, of the powers which by virtue of the letters patent the corporation was empowered to exercise. When those powers are forfeited the corporation as a legal entity still subsists although it is powerless to carry out its purposes.

By cancellation is meant the complete extinguishment of the corporation as a legal entity.

I draw your attention to Section 325 of The Corporations Act and Section 27 of its predecessor The Companies Act (see Exhibit 4 in the Appendix hereto) dealing with forfeiture if a corporation should fail to go into actual operation within two years after incorporation or for two consecutive years following incorporation it should not exercise its corporate powers. I should point out that under Section 27 of The Companies Act forfeiture for those reasons followed ipso facto. Under Section 325 of The Corporations Act forfeiture is not automatic but The Lieutenant

Governor is empowered, after giving notice to the corporation, by order, to declare the corporate powers forfeited.

In December 1959 a Press report criticized the Department for failure to cancel the charters of social clubs where it was alleged there was illegal gambling. As of that date there had been trafficking in old charters that had been issued in the first place for perfectly legitimate purposes. Professional gamblers had acquired them by purchase or otherwise and were using them as a shield behind which to carry on their illegal activities. You will recall that it was not until August 1946 that the Department, as a matter of policy, began inserting in social club charters a provision limiting their operations to a named municipality and not until May 1950 that it commenced thus limiting their operations to a particular address. When professional gamblers acquired social club charters that did not contain those restrictions they moved the clubs from one municipality in the Province to another, and in particular into the Metropolitan area, or from one address in a municipality to another in the same municipality. Some of those charters had been abandoned by those who originally acquired them and the annual returns had not been filed for years. That default was remedied by filing the returns for those years all at once. All this I shall make abundantly plain when I come to deal with a number of those clubs.

As a result of the Press report to which I have referred the Deputy Minister, Mr. Cudney, arranged

a meeting with Chief Constable Mackey of the Metropolitan Toronto Police at which meeting those matters to which I have just referred were brought to Mr. Cudney's attention. He reasoned that in the case of some of those clubs their corporate powers had been forfeited years ago by reason of default in filing annual returns. The matter was discussed with the Minister, The Honourable Dr. Phillips, and two things occurred: First, the policy of the Department was extended to cancel the charter of clubs that had purported to operate after their corporate powers had been forfeited for non-user; second, Section 291 of The Corporations Act was enacted. You will recall that is the section that prohibits a social club from changing the location of its premises without the prior consent in writing of The Provincial Secretary.

Shortly before the meeting with Chief Constable Mackey Mr. Cudney, the Deputy Minister, had instructed the executive officer in charge of the annual returns section to bring to his attention any club, except service clubs, that had been in arrears, and also where the annual return of a club filed for one year showed that there had been a change of address in its head office from that shown in any previous annual return. As a result of that directive a number of cases were brought to his attention. In a case where it appeared (1) that the corporation may have purported to operate after its corporate powers had been forfeited or (2) that there had been "trafficking" in the letters patent the Deputy Minister with the concurrence of his Minister required the corporation under Section 4 of The Corporations

Information Act to make a return to the Department of all its books and records so that to the extent possible it might be determined from them whether the corporate powers had in fact been forfeited or whether it was one of those cases in which there had been a trafficking. Some corporations did not comply with that demand and this non-compliance was considered as constituting "sufficient cause" for cancelling the letters patent.

Summarizing: By the policy of the Department as developed over the years the following are regarded as constituting "sufficient cause" for cancelling the letters patent of a social club:

- (1) Conviction for an offence either by the club or by a person on the club premises.
- (2) Where there is strong evidence of illegal gaming on the club premises.
- (3) Where there has been a contravention of a clause in the letters patent of the club.
- (4) Where the club barricades its doors.
- (5) Where the club fails to produce its books when required to do so by way of a special return under The Corporations Information Act.
- (6) Where the club has purported to operate notwithstanding the forfeiture of its corporate powers.
- (7) Where the club has moved its premises without the consent of the Provincial Secretary.

CHAPTER XII

THE DEFECT IN THE SYSTEM AND THE REMEDY

It should be kept in mind that letters patent incorporating not only Social Clubs but also all other corporations may be cancelled on two grounds: First, where "sufficient cause" is shown, and second, for default in filing annual returns.

In the immediately preceding chapter I reviewed the policy of the Department as to what constitutes "sufficient cause" in the case of social clubs. Among those causes are events or circumstances that could come to the attention of the Department only by way of information conveyed to it by the police in the first instance.

The Department itself is not a policing agency. So far as policing may be necessary the Department must rely on the regular agencies.

My investigation has convinced me that two things are lacking and must be supplied if The Provincial Secretary is to be enabled to effectively exercise the power of cancellation for "sufficient cause" of so-called social clubs which is conferred upon him by the general section in The Corporations Act dealing with cancellation. The one is a system by which the necessary information shall be conveyed to him by the police and the other is the legal machinery that will enable him to make use of it when he gets it.

Let us examine the extent of the present liaison between The Provincial Secretary's Department and the Police so far as cancellation is concerned.

If and when there is a conviction for illegal gambling on the club premises that fact is

reported by the police to the Department. If an information is laid and the accused is acquitted that fact may or may not be reported by the police to the Department. The evidence leading to the acquittal may indicate gambling on the premises but be insufficient to connect the accused with it. If every such acquittal is presently reported to the Department then all I can say is that is not my understanding of the existing policy. If an application is made for supplementary letters patent to permit the club to change the location of its premises that application is referred to the police and if they have some knowledge or well grounded suspicion that the club premises are being used for illegal gambling they say so in their report. The evidence before me disclosed a number of such instances and the police in their report recommended not only that the application be refused but also that the charter be cancelled. On some occasions the police have submitted reports unsolicited with respect to certain clubs that had become notorious as the hang-outs of criminals. When the suspected criminal activities of a particular club or clubs in general became otherwise notorious information was conveyed to the Department and then there was a hue and cry of laxity on the part of The Provincial Secretary.

I think in the above I have fairly stated the present extent of the liaison between the police and the Department. It is a sort of patch quilt system. In saying that I do not intend to speak disparagingly of it. It was developed over the years and one patch after another added as exigencies

developed necessitating them. I am not in any way critical of the manner in which it was developed. My criticism is that there are not enough patches in it.

Why should The Provincial Secretary have to wait until there is a conviction, or until certain persons are charged, or until perchance there is an application for supplementary letters patent, or until a club has become notorious as a hangout for criminals, or notorious as a suspected gambling place before being advised that it is being used or strongly suspected of being used for those purposes?

The police in the course of their duties may from time to time come upon a situation that indicates that individuals are carrying on illegal activities behind the screen provided by a social club charter but there is not quite sufficient evidence to justify the laying of a charge. There were a number of such instances referred to in the evidence before me. If, in all such cases, that information should be conveyed to The Provincial Secretary he could avail himself of it in a move toward cancellation providing, of course, there was the legal machinery enabling him to do so.

I therefore recommend that the scope of the liaison between the Department of The Provincial Secretary and the police be extended under a well defined policy so that, as extended, The Provincial Secretary shall be kept constantly informed of such facts as come to the attention of the police and leads them to a well grounded suspicion that a social club

or those in charge of or directly associated with it are engaging in illegal activities. The reason why that is presently not being done is obvious. The Provincial Secretary is empowered to cancel letters patent only upon "sufficient cause" being shown and "sufficient cause" is not shown if the facts relied on lead only to a well founded suspicion.

Presently there is no legal machinery by which The Provincial Secretary can conduct an inquiry to determine whether or not illegal use is being made of a charter. Within the Department the policy has been developed by which when information is conveyed to it that, in the opinion of the Minister, shows "sufficient cause" a written notice is sent to the particular corporation involved that the Minister proposes to cancel the charter unless sufficient cause is shown to him why he should not. I am critical of that procedure.

In the first place the statute provides that the letters patent may be cancelled "where sufficient cause is shown". The policy of the Department contravenes the statute by providing that the letters patent shall be cancelled unless the corporation involved shows sufficient cause why it should not be.

If it is proper to apply that procedure in the case of a social club charter then it would be proper to apply it to every other charter by which a company is incorporated. The letters patent having been granted to a corporation, no matter what its nature, that corporation is entitled by virtue of the statute, as it now stands, to retain it unless sufficient cause is shown for its revocation.

Under the existing policy, if and when a notice is sent to a corporation of an intention to cancel, the corporation may demand a hearing but on that hearing the onus is still placed on the corporation of showing sufficient cause why the charter should not be cancelled and in my opinion that is wrong because it is not authorized by the Act. If that onus is to be shifted to the corporation then the Act has to be amended to so provide.

There is still another defect in that procedure quite apart from the question of onus. The decision of The Provincial Secretary is final. It is all very well to say that he will act judicially but suppose he does not and a corporation's charter is cancelled. What then? The corporation has no recourse by which the wrong can be righted. It is no answer to say that, in any event, the Minister has an uncontrolled discretion to cancel. In my opinion he has not and the Legislature has recognized that by spelling out the conditions under which he may cancel the charter.

I recommend that legislation be enacted empowering The Provincial Secretary under such circumstances and at any time as he in his discretion may think advisable to conduct an inquiry for the purpose of determining whether or not there is "sufficient cause" for cancelling letters patent incorporating a company; that he be empowered to compel, under appropriate sanctions, any person, upon due notice being given, to appear before him as a witness on such inquiry and submit to examination under oath touching any matter relevant to the purpose

of the inquiry and to produce such documents and things as The Provincial Secretary may deem requisite for that purpose; that Section 9 of The Evidence Act, R.S.O. 1960, Chapter 125, shall apply to such witness and the evidence given by him; that there be a right of appeal to the courts from his decision on a question of law.

The legislation that I have thus envisaged should go a long way in thwarting the illegal use of social club charters by professional gamblers and there is no doubt it is entirely within the competence of the Legislature.

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CHAPTER XIII

PROCEDURE WITHIN THE DEPARTMENT FOLLOWING DEFAULT IN FILING ANNUAL RETURNS

The purpose served by requiring corporations to file annual returns is twofold. First, those returns provide a source of information to the public and in particular to persons who contemplate having or have had dealings with the corporation; second, they provide to The Provincial Secretary information valuable to him. They provide a systematic means by which he, as a Minister of the Crown, may keep track of those corporations.

The omission to file the annual returns may be due to mere neglect or to ignorance or to misunderstanding as to the necessity for so doing.

On the other hand it may be due to the fact that the corporation has ceased to function and that the shareholders in the case of a corporation with share capital or the members in the case of a corporation without share capital such as these social clubs have abandoned the charter.

Where there is default in filing those returns the practice is to prod the defaulting corporation by written notice usually more than once and even to the extent of pointing out the monetary penalties attendant upon such default and where the default continues notwithstanding the prodding it is not an unreasonable inference that the corporation has ceased to function. In those circumstances the practice developed in the Department of transferring the corporation file from the current files and placing it with others like it in files containing what were denoted as "dormant" corporations in order to make room for the constantly increasing number of current files. The intention was to weed them out later by cancellation when time and staff permitted. Due to the mounting pressure on the staff caused by the enormous increase in recent years in the practice of incorporating companies for commercial purposes those "dormant" charters were not cancelled with the dispatch intended. More new corporations are incorporated in Ontario each year than in any other jurisdiction in Canada.

There came a time, however, - it would appear to have been in 1956, - when a concentrated effort was commenced to go through those dormant files and get rid of those old charters. The following table should be informative:

Year	Corporations Incorporated	Supplementary Letters Patent	Charters Surrendered	Charters Cancelled
1950	2051	318	297	119
1951	1779	811	296	144
1952	1772	706	335	478
1953	2113	550	317	559
1954	3530	522	317	506
1955	3628	572	261	841
1956	4684	742	355	2775
1957	5134	807	276	1798
1958	4305	786	287	1018
1959	5865	787	351	2157
1960	6370	979	350	2623
1961	5665	1181	369	3853
	<u>46896</u>	<u>8761</u>	<u>3811</u>	<u>16871</u>

Even more significant in relation to the subject of cancellation for failure to file annual returns is the following table:

Year	Corporations filing annual returns
1950	19,931
1951	20,009
1952	19,859
1953	21,297
1954	22,940
1955	28,457
1956	34,601
1957	35,281
1958	41,569
1959	52,590
1960	53,017
1961	55,986

No doubt the charters of some of the social clubs that were acquired by professional gamblers and put in order, or so they thought, by filing the annual returns that were in arrear, could have been cancelled had the Department acted promptly. However, in my respectful opinion, one should take a reasonable and practical view of the situation as it existed at the time. It could not have been anticipated that these dormant charters would later be reactivated and put to illegal use. I am thoroughly satisfied that that thought never crossed the mind of anyone in the Department. However, when annual returns that had been in arrears for years were suddenly filed in a bunch I should have thought that fact would arouse some curiosity in the mind of the Returns Officer but apparently until 1960 it did not. Toward the end of 1959 Chief Mackey drew attention to what was going on but not until then was the Minister or his Deputy aware of the problem that had arisen.

CHAPTER XIV

THE RELATIVE MERITS OF FORFEITURE AND CANCELLATION

Before getting down to cases I think it appropriate that I should say something further with respect to forfeiture in addition to what I have already stated concerning it.

Section 168 (2) of The Criminal Code (supra) avails only where the place that would otherwise be a common gaming house is occupied and used by an incorporated bona fide social club. If and when the

powers of a social club have been forfeited it has no power to use any place for its purposes. It does not follow, however, that forfeiture is a means equally as effective as cancellation for defeating the evil purposes of those who would use the charter as a shield behind which to operate. Where there is merely forfeiture the empty shell of the corporate structure still exists. The charter is still extant and can be posted up under crossed flags in the club premises as a sort of mirage to mislead the police into believing that the corporation is still entitled to use it. Ordinarily the police would not know that it could not be so used. For that reason it seems to me that it is more or less useless as a deterrent to provide for the forfeiture of corporate powers and leave the charter still extant.

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CHAPTER XV

THE INVESTIGATION INTO PARTICULAR SOCIAL CLUBS IN RELATION TO CANCELLATION

Under this heading evidence was given before me with respect to thirty-four corporations. I have already dealt with four of them, viz. Club Macedonia, Spadina Social and Card Club, The Toronto Chinese Anti-Communist Club and The Toronto Chinese Athletic Club. The others were as follows:

Queen City Chess & Bridge Club

Ringside Club

Lakeview Athletic Club

Chan Social Club
Sun Sun Social Club
Club "21"
Union Jack (Toronto) Social Club
Nottawa Community Club
Humber Bay Community Association
Glenbrook Country Club
Preston Amateur Athletic & Social Club
Greek-Canadian Social Club
Club Bernard
Club "U"
Columbia Bridge Club
Sorauren Social Club
Bathurst-Sheppard Social And Athletic Club
Central Recreation Club
Portuguese-Canadian Association of Toronto
New Canadian Social Club
Arlington Athletic Club
Parthenon Social And Recreation Club
Atlas Club
Porcupine Social Club
West End Bridge And Social Club
Italian Niagara Frontier Club
Bellevue Bridge And Social Club
The Omega Club
Somerset Club
Tisdale Club

I now deal with the evidence concerning
those clubs in the order in which they are named.

{QUEEN CITY CHESS & BRIDGE CLUB
{RINGSIDE CLUB
{LAKEVIEW ATHLETIC CLUB

For reasons that will become apparent I am dealing with these three clubs more or less in a group.

QUEEN CITY CHESS & BRIDGE CLUB

This club was incorporated by letters patent dated February 9, 1937. It would appear to have been incorporated for perfectly legitimate purposes. One of the moving spirits in connection with the club in its early days was Bernard Freedman. It ceased to carry on its activities, however, at the time of the last war and became completely dormant. From time to time the annual returns were in arrears and on prompting from the Department of The Provincial Secretary Freedman attempted to complete annual returns and file them with the Department. During those dormant years it would appear that annual meetings had not in fact been held.

On May 12, 1952, Freedman wrote to the Department of The Provincial Secretary and advised him that the club had slowly died, there had been no meetings in the previous five years, the original officers had either died or moved away and some of the more ardent members had joined other similar organizations. Nothing, however, was done to terminate the club's existence at that time and thereafter for a number of years the Department kept prodding the corporation through Freedman to file its annual returns.

In 1958 Freedman discussed a possible sale of the charter with the other original incorporators with the view to salvaging their original investment and the charter was later sold to a Mr. Bluestein through Mr. Carl Keyfetz, a lawyer, for the sum of \$250 and that amount was distributed equally between the original incorporators. There is a memorandum in the file of this company in The Provincial Secretary's Department reading as follows:

"This charter has been sold. For further information contact Mr. Carl Keyfetz, Q.C., 347 Bay Street".

Then the typewriting on the bottom says:

"The Queen City Chess & Bridge Club".

I think there can be little doubt in view of subsequent events that the Mr. Bluestein was Max Bluestein. Knowledge of this sale reached the Department of The Provincial Secretary shortly after it had been consummated. I leave this club for the time being and pass on to

RINGSIDE CLUB

This club was incorporated by letters patent dated March 27, 1947, by or on behalf of persons interested in boxing. One of the incorporators was Paul Sugar and the head office of the company was at his residence, 258 Grace Street, in the City of Toronto. The other incorporators were office incorporators. Two years after incorporation it commenced to carry on its activities at 54 Yonge Street in the City of Toronto. In June, 1950, the police conducted a raid at 54 Yonge Street but there were apparently no arrests. In 1958 according to the evidence this club ceased operations. It did not

again attract the attention of the police until July, 1960, following a raid by the police on the premises of Lakeview Athletic Club at 2016-A Bathurst Street. At the time of that raid the corporate seal of the Ringside Club was found on those premises. As the result of the raid Max Bluestein, Joseph Zeldin and Samuel Binder were arrested and charged on a number of counts including keeping a common betting house and engaging in bookmaking and they were subsequently convicted and on December 14th following their trial they were each convicted of keeping a common gaming house and engaging in bookmaking. They were sentenced to two months imprisonment and fined the sum of \$15,000 or an additional four months imprisonment.

LAKEVIEW ATHLETIC CLUB had also been charged with the same offences as were charged against those individuals. Before the trial the offer was made by counsel representing Lakeview Athletic Club that if the Crown would withdraw the charges against the individuals Lakeview Athletic Club would plead guilty and also that the charters of Queen City Chess & Bridge Club and Ringside Club would be surrendered. It is reasonable to assume that the offer to surrender those two charters would not have been made without the consent and approval of those who at that time had possession and control of them. Max Bluestein gave evidence before me and what he said was tantamount to an admission that he is the Mr. Bluestein who purchased the charter of the Queen City Chess & Bridge Club. He put it thus: that if anybody bought that charter it was not his brother Irving. He was very

anxious that nothing in the evidence would reflect adversely on his brother.

Who were those persons who had possession and control of those two charters? It developed that Joseph Zeldin was Vice-President of Lakeview Athletic Club and the President of Ringside Club, and Samuel Binder was Secretary-Treasurer of Lakeview Athletic Club and Vice-President of Ringside Club. It also developed that the President of Queen City Chess & Bridge Club was Irving Bluestein.

The charter of Lakeview Athletic Club was cancelled on March 2, 1961, following the convictions to which I earlier referred and the charters of Ringside Club and Queen City Chess & Bridge Club were each cancelled on June 16, 1961, for failure to produce their books pursuant to the demand on behalf of the Provincial Secretary for a special return pursuant to the relevant sections of The Corporations Information Act.

Summarizing, we have here

- (1) evidence of trafficking, such evidence consisting of the evidence as to the sale of the charter of the Queen City Chess & Bridge Club to Max Bluestein in 1958,
- (2) the attempt to barter the charters of the Ringside Club and the Queen City Chess & Bridge Club by way of a consideration for the withdrawal of the charges against Bluestein, Zeldin and Binder,
- (3) that in 1952 it was brought to the attention of the Department that the Queen City Chess & Bridge Club had been dormant for five years. That is to say that for five consecutive years it had not exercised

its corporate powers. Such non-user resulted in the ipso facto forfeiture of that corporation's corporate powers under Section 27 of The Companies Act, but notwithstanding that forfeiture the Provincial Secretary's Department kept pressing for the filing of the annual returns for succeeding years.

From January 6, 1961, until April 15, 1961, the Deputy Provincial Secretary was absent from his office on account of illness. On March 16, 1961, the Director of Companies in The Provincial Secretary's Department in a memorandum to the Minister stated that in his opinion there was no reason for cancelling the charters of the Queen City Chess & Bridge Club and the Ringside Athletic Club. In the multiplicity of duties that the Minister has to perform he necessarily relies to a large extent on his legal staff. In my opinion there was in the facts that I have related more than sufficient cause to cancel those two charters. In the first place the corporate powers of Ringside Athletic Club had been forfeited leaving only the empty shell. That empty shell was controlled by Joseph Zeldin and Samuel Binder and it is to me transparently clear that they were holding it, so to speak, in reserve and both of them had been convicted.

CHAN SOCIAL CLUB

This club was incorporated by letters patent dated March 28, 1956, and its activities limited to 180 Dundas Street West. The annual returns for the year 1957 were filed with the Department on January 15, 1959, and at that time the Department was advised that no annual meeting had ever been held and the club had never been organized. The annual returns for the year 1959 were filed with the Department in January, 1960, and again indicated that no annual meeting had been held. In a letter to the Department dated January 7, 1960, the solicitor - I presume for the incorporators - advised the Department that the club had never exercised its corporate powers.

Curiously enough, in the light of the fact that the company had never been organized, in 1959 it applied for supplementary letters patent to change its name to Fook Lee Social Club and to change the location of its premises to 124 Dundas Street West. That application was referred to the Ontario Provincial Police and to the Metropolitan Toronto Police Department. The report of the Ontario Provincial Police was dated March 10, 1959, and that of the Metropolitan Toronto Police Department dated March 20, 1959, and they both recommended against the grant and also recommended that the letters patent be cancelled.

On March 23, 1959, the Deputy Provincial Secretary held a conference with members of the Ontario Provincial Police and Inspector Walker of the Metropolitan Toronto Police Department and the whole position with respect to this club and its activities was there canvassed.

The Deputy Provincial Secretary apparently after some discussion with his Minister refused the application for supplementary letters patent but whether or not the charter should be cancelled remained the subject of some discussion in the Department.

Under date March 25, 1959, the Deputy Provincial Secretary wrote a memorandum to the Minister and I cannot do better than quote it:

"I refer to my recent conversation relative to the proposed cancellation of the charter of the above club. The company was incorporated under the Corporations Act 1953 by letters patent dated March 28, 1956. By the letters patent the club premises were limited to 180 Dundas Street West, Toronto.

In accordance with our practice the application was approved by the Metropolitan Toronto Police and the Provincial Police before the letters patent were issued.

Recently the club made an application to the Department for supplementary letters patent to change its name" (to Fook Lee Social Club) "as well as the location of the premises" (to 124 Dundas Street West). "We referred this application to the Metropolitan Toronto Police and to the Provincial Police and received a reply from both not only objecting to the issuance of the proposed supplementary letters patent but recommending that the charter be cancelled. I arranged an interview with Sergeant Anderson of our Provincial Police Morality Squad and Inspector Walker of the Metropolitan Toronto Morality Squad. The meeting was held in my office on March 23 and both Sergeant Anderson and Inspector Walker are of the view that the club is being conducted as a common gaming house.

"The club's premises consist of one large room with no equipment except gaming tables as evidenced in the attached pictures. There are 90 members of the club each paying \$25 a year membership making a total of \$2250 a year income, but the rent is \$550 a month, therefore the cost of operating the club must come from some source other than membership fees.

The police are advised by the officers of the club that a charge is made to the players of 10 cents an hour and not more than 50 cents a day per player. Under the Criminal Code any charge made for gaming is illegal. However, there is an exception in the Code whereby a bona fide club can charge 10 cents an hour and not more than 50 cents a day per player without being guilty of keeping a common gaming house. The police think that it is more than likely that the club charges considerably more an hour per player but if they are not charging more than the above stated amount they are not keeping a common gaming house in contravention to the Criminal Code."

At that point in the memorandum the Deputy Provincial Secretary outlines the prohibition clause in the charter without which the club could make a charge:

"This clause has gone in club charters for the last eleven years at the suggestion of the police because very often incorporated clubs claimed that they were charging what the law permitted whereas they were no doubt charging more.

It appears that the club by the admission of its officers has contravened the provisions of the charter by making any charge and I would recommend that in view of the general background and the recommendation of the police the letters patent be cancelled for cause under Section 325 (1) of the Corporations Act 1953.

I may say that Chief Mackey of Metropolitan Toronto Police in his letter of March 20th concurs in the recommendation of Inspector Walker to cancel the charter the copy of which letter and report of Inspector Walker is enclosed".

It would appear that notwithstanding that the Deputy Provincial Secretary had refused the application the solicitor for the applicant still kept pressing in an effort to have the supplementary

letters patent granted. In other words he would not take "no" for an answer.

The matter seems to have been in that state of flux up to and including July 31, 1959, on which date the Provincial Secretary wrote to Premier Frost. Earlier herein I referred in passing to that letter. In it he reviewed the facts as set out in the Deputy Provincial Secretary's memorandum to him. There is one significant passage in that letter and it is as follows:

"However, in view of the clause in the charter which prohibits any charge being made even of 10 cents an hour there are grounds for cancellation of the charter".

The letter concludes:

"I am bringing this matter to your attention for your advice as to whether or not the charter should be cancelled and as to whether or not supplementary letters patent should be issued".

In my earlier reference to that letter I stated that Mr. Frost in his evidence before me stated that the letter never came to his attention and I accept his evidence.

The next thing that happened in the Department of the Provincial Secretary was this: On May 9, 1960, a report was received from the Metropolitan Toronto Police Department reporting a conviction on April 22, 1960, of four persons for keeping a common gaming house at 124 Dundas Street West and the conviction of 43 found-ins.

On May 11, 1960, the Deputy Provincial Secretary gave that report to the solicitor in the Department and asked him to look into the file and speak to him "in the near future". A whole year went by without anything being done relative to

cancellation of the charter. During part of that year the Deputy Provincial Secretary was ill and absent from duty. In his evidence before me the Deputy Provincial Secretary gave three possible reasons for the delay:

First, that having referred it to the solicitor he had not received any report from him and had lost sight of the matter.

Second, that the solicitor had reported back to him and he, the Deputy Provincial Secretary, had done nothing about it.

Third, that he had discussed it with his Minister and it was decided not to proceed.

Meanwhile the police had been busy and conducted a whole series of inquiries and investigations at the premises at 124 Dundas Street West as a result of which it was apparent that there was a close affiliation between this club and the unincorporated organization known as the Fook Lee Social Club and that the premises were used for illegal gambling activities. On a number of occasions those in charge produced the charter of the Chan Social Club to make it appear that that club was conducting the activities there and as an incorporated social club entitled to the benefit of the exemptions contained in the Criminal Code.

By May 1961 the Deputy Provincial Secretary had returned to his duties after his spell of illness and the activities at 124 Dundas Street West were drawn to his attention and as a result he sent a written notice to the club on June 2, 1961, advising that the charter would be cancelled unless sufficient cause should be shown why it should not. The club through

its solicitors objected to cancellation and a hearing was held and the normal procedure followed and the charter was cancelled on December 6, 1961.

Concerning what transpired between March 25, 1959, and the date when the charter was cancelled I have no comments to make. The facts speak for themselves.

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SUN SUN SOCIAL CLUB

This club was incorporated by letters patent in 1941 and under its charter its activities were limited to 92 Elizabeth Street in the City of Toronto.

The annual returns for the years 1951 to 1955 inclusive were filed with the Department in 1955. The Provincial Secretary could have availed himself of that omission and taken proceedings to cancel the charter under the relevant section of the Act.

The annual returns from and after 1955 were apparently filed promptly and it is a reasonable assumption that if the Department had taken proceedings to cancel the charter because of the arrears for the years 1951 to 1955 inclusive those returns would have been brought up to date at that time.

On February 7, 1951, the Department received a report from the Toronto Police Department that four persons had been convicted of keeping a common gaming house at 92 Elizabeth Street and on February 15, 1951, the Deputy Provincial Secretary notified the club that because of that conviction the charter would be cancelled. The solicitor for the club wrote the

Department under date February 24, 1951, requesting that the cancellation proceedings be stayed pending an appeal against those convictions. An appeal was taken and the convictions were quashed and the Department was so notified in November, 1951

The annual returns for 1959 showed that the location of the head office of the club had been changed from 92 Elizabeth Street to 14 Hagerman Street. Information reached the Department indicating that not only had the head office been changed but the location of the club premises had also been moved to that address. The Department conducted a hearing for the purpose of determining whether or not the club premises had in fact been so moved and found that they had not.

On or about the time that the club was said to have moved to that new address apparently the premises at 92 Elizabeth Street had either been torn down or turned to some commercial purposes and since that date the club has not used its corporate powers.

In November, 1960, the club applied for supplementary letters patent changing the location of the premises at which it would be authorized to operate from 92 Elizabeth Street to 121 Dundas Street. Those premises had recently been occupied by the "21" Club the charter for which was cancelled. The application for supplementary letters patent was opposed by the Ontario Provincial Police and the Metropolitan Toronto Police on the ground that the move to those premises was prompted by the intention on the part of the club to carry on gambling activities there. The application was refused.

There was a suggestion that the charter may have been purchased by another group of Chinese to take the place of the "21" Club which they had been using as a screen to hide their gambling activities at 121 Dundas Street. That suggestion, however, was merely the result of suspicion.

The present situation is that by its charter this club is still limited in its operations to 92 Elizabeth Street and those premises are not available to it. It therefore has not and cannot exercise its corporate powers.

The Deputy Provincial Secretary in his evidence before me stated that the Department is waiting for the club to take the next step. The present situation is certainly unique and cannot be allowed to continue indefinitely. There is a possibility although somewhat remote that the club cannot find any other premises at which to carry on its operations. Over two years have now elapsed since it applied for supplementary letters patent enabling it to move to 121 Dundas Street and I should have thought that was a sufficient testing period within which it could be determined whether or not other premises were available to the club. If they are not then that fact may be an unfortunate circumstance for the club but I do not think it would justify the Department in any further delay in cancelling the charter.

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CLUB "21"

This club was incorporated by letters patent dated April 14, 1947. Its objects were primarily to promote athletic activities and it was originally intended for the benefit of persons of Italian origin in the City of Toronto.

On November 24, 1955, one Lawrence Ryan, one of the incorporators, wrote to the Department of The Provincial Secretary directing his letter to the attention of the returns officer stating:

"Inasmuch as the Club "21" disbanded in 1950 I would suggest that you contact Mr. L. Spears, care of Antoni's Tavern, 322 Adelaide Street West, as this gentleman is now in possession of the charter".

Mr. L. Spears is one and the same person as Louis Spizziri. No action was taken in the Provincial Secretary's Department as a result of that letter.

Subsequently the charter fell into the hands of a group of Chinese who operated under the name of this club at 121 Dundas Street West. Those premises were raided from time to time and were a constant source of difficulty to the Metropolitan Toronto Police. There were prosecutions of certain Chinese persons some of which prosecutions succeeded and some of which failed and for my purposes there is no necessity of going into all the details of those various raids and trying to identify the Chinese persons involved. The charter was not cancelled until March 6, 1962, and then on two grounds, namely continuing to operate after its corporate

powers had been forfeited and moving without the consent of the Provincial Secretary under Section 291 of The Corporations Act.

It will suffice for my purposes to state that if, as a result of Mr. Ryan's letter to the Department in 1955, the Department had investigated it would have then been disclosed that Club "21" had not exercised its corporate powers for a number of years commencing in 1950 and that under Section 27 of The Companies Act its powers had been ipso facto forfeited. That the Department would have learned these facts is made abundantly clear from police investigations conducted when gambling operations by the Chinese at 121 Dundas Street West came to their attention. The police were told at that time that Club "21" was actually carrying on operations at that address and the photostatic copy of the charter was produced. The police followed that lead and interviewed a number of the original incorporators and it became perfectly clear that this club had disbanded in 1950.

The annual returns filed from the date of incorporation to 1957 inclusive showed among others Lawrence Ryan and James (Vincent) Lauria as directors. The 1958 annual return shows that those two men allegedly resigned as officers of the corporation at the annual meeting held on February 11, 1958. Investigation of the Vital Statistics Bureau for the Province of Ontario disclosed that James (Vincent) Lauria had died on May 25, 1954. The annual returns for the years 1955, 1956 and 1957 were therefore false and the persons who signed them were liable to prosecution under Section 8 of

The Corporations Act. A prosecution under that section however must be commenced within six months (see Section 3 of The Summary Convictions Act and Section 693 (2) of The Criminal Code). By lapse of time therefor they cannot now be prosecuted.

It appears in the police report that the original incorporators or at least some of them signed off - whatever that means - to Louis Spizziri who is one and the same person as R. Spears and who was referred to in Lawrence Ryan's letter to the Department dated November 24, 1955. There is some indication that their "signing off" was for the purpose of enabling Spizziri to sell the charter.

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UNION JACK (TORONTO) SOCIAL CLUB
NOTTAWA COMMUNITY CLUB

This portion of my report might well be captioned Re 1601 Dundas Street West in the City of Toronto, that being the address at which these two clubs in quick succession carried on their activities. There is some evidence that these premises had earlier been occupied by the Greek-Canadian Social Club. That evidence is to the effect that in a raid on these premises on March 7, 1959, to which more extensive reference will be later made, telephone and Hydro-Electric bills charged to the Greek-Canadian Social Club for service at that address were found on the premises. The application for those services had been made in January, 1959, but by March of that year the premises were occupied by the Union Jack Club.

Union Jack Club was incorporated by letters patent dated June 1, 1938. There was little evidence before me as to the activities of the club from the date of its incorporation until 1959. On March 7, 1959, a raid was conducted on these premises by members of the Metropolitan Toronto Police Department. On the premises at the time were found William Duddy who identified himself as Secretary-Treasurer of the club, and there were thirteen other found-ins. At that time Duddy told the police that one James Stavro was the President, and a number of membership cards were produced allegedly signed by Stavro as President. Police quickly got in touch with Stavro. He was operating a restaurant at 3741 Bloor Street West. He at once came down to the premises at 1601 Dundas Street West, examined the membership cards and stated that the signature on the cards was not his; that he recalled receiving a telephone call from someone whom he did not know some time earlier stating that he had been elected President, that he thought it was a joke and paid no more attention to it; that he had never previously been on these premises and did not know anything about the operations of the club. Duddy stated that he had been the steward of the club at these premises for six weeks and had no knowledge of any other club having previously operated at that address. As the result of the raid on March 7, 1959, Duddy and Jarvis were charged with keeping a common gaming house and the thirteen other persons charged as found-ins. On June 12, 1959, Duddy was convicted. The charge against Jarvis was dismissed and the thirteen found-ins were also convicted. As a result

of those convictions the charter of this club was cancelled on September 3, 1959.

Nottawa Community Club was incorporated by letters patent on October 27, 1919. Its purposes were to carry on social activities in the area of the Township of Nottawasaga, particularly amongst the farmers in that area. In 1930 it stopped filing annual returns and in July, 1930, one of the original incorporators, a farmer, wrote a letter to the Department informing it that the club had not been operating for four years, that the club house premises had been sold and converted into a store. As a result of that information The Provincial Secretary requested a return of the charter. For some reason or other it was not returned. The Department of the Provincial Secretary in due course thereafter treated this club as a dormant club and the records concerning it and other corporations in which there had been considerable default in filing the annual returns were stacked away by themselves and little or no attention paid to them.

In January, 1959, this club suddenly became reactivated. On January 23, 1959, the annual returns for each of the years 1931 to 1958 were all filed with the Department of The Provincial Secretary and in May, 1959, the Department was advised that the head office of this corporation had been moved from Nottawa to York County.

On August 5, 1959, as the result of complaints a raid was conducted by members of the Metropolitan Toronto Police Department on the premises at 1601 Dundas Street and it was found that those premises were at that time occupied by this club and William

Duddy was again there but at this time in the capacity of steward for this club. On the wall in the premises was a sign stating who the officers were and according to that sign the officers were as follows: Orville Bull, President (in some mysterious way he had become President of the Union Jack Club after Stavro had disclaimed any connection with that club), Ennio Frustik, Vice-President, and Alfie Adler Secretary-Treasurer. (Alfie Adler was the son of Archie Adler who had earlier been convicted at another club known as the Athene Social Club to which I will be later referring). The police apparently did not succeed in getting sufficient evidence on that raid to justify the laying of any charges but being suspicious concerning it they conducted a series of subsequent raids.

The first of those subsequent raids was on September 11, 1959. At that time one David Scianimonica was on the premises and identified himself as the club steward. He had apparently succeeded William Duddy. This same Scianimonica had formerly been the club steward of still another social club known as the St. Patrick's Recreation Club which had caused the police considerable difficulties. When that club had been under investigation Scianimonica had described himself as some time gambler, some time truck driver, and his criminal record showed that he had engaged in other activities, - theft, shopbreaking and theft, breaking and entering, assault causing bodily harm (two of these) and breach of the Liquor Control Act.

The next raid was conducted on September 21, 1959. William Duddy appeared to be in charge at that time and from what was then observed by the police it appeared that the place was being operated as a common betting house.

The third raid was on September 28, 1959, when there was further evidence indicating that it was still being used as a common betting house.

It is important to point out that none of the information with respect to the operations of this club at that address were brought to the attention of the Provincial Secretary's Department until January, 1960.

In the latter part of December, 1959, a press report criticising the Department for not cancelling letters patent of social clubs where it was alleged that there was illegal gaming and that twenty-five of such clubs were operating in Metropolitan Toronto came to the attention of the Department and as a result the Deputy Provincial Secretary communicated with Chief Constable Mackey and requested him to submit a report on all clubs operating in the Metropolitan Toronto area which were suspected of illegal gaming, and on January 6, 1960, Chief Constable Mackey gave a very lengthy written report to the Provincial Secretary's Department concerning this particular club.

A look at that report gives some indication of the type of persons who were patronizing this club. They included persons having criminal records for perjury, theft, housebreaking, fraud, illegal possession of partly treated ore, assault occasioning

bodily harm, obstruction of the police, gaming offences, and a variety of lesser offences.

The report strongly recommended cancellation of the charter and it was cancelled on February 26, 1960.

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HUMBER BAY COMMUNITY ASSOCIATION

This association was incorporated by letters patent dated November 8, 1947. The incorporators were three persons by name Lewis, Gair and Rowan. Its purposes were laudible and were to promote the social, cultural and physical life of the community of Humber Bay and vicinity in the Township of Etobicoke by encouraging the development of sports, studies, discussions, music, dramatics, hobbies and other occupations in the leisure time of the citizens of that community.

For some time prior to incorporation the three incorporators had operated a teen age club which held its meetings in a school building. The building was apparently moved and an application was then made for a charter in an endeavour to keep the group together. It would appear that the expectations of the incorporators to continue to carry on their laudible work was never realized and that after incorporation the association really never used its corporate powers.

No annual returns were filed until January 27, 1960, when the returns for each of the years up to and including 1958 were filed in a bunch by one Henry M. Finkle, a lawyer. The annual returns for each of the years 1948 to 1955 showed the original

three incorporators as directors. The annual returns for the years 1956 to 1958 inclusive showed Lewis and Rowan as the only directors. It was brought out in evidence before me that Gair had died in 1954 and that at some time prior to 1959 - the year is uncertain in the evidence - Rowan had gone to Australia.

The Companies Information Act which was in effect until April 30, 1954, required the annual returns to be verified by the affidavit of the president or in his absence a director of the company. The Corporations Information Act which came into effect on April 30, 1954, required annual returns to be merely certified by the president or in his absence a director of the company.

The annual returns for each of the years up to and including 1953 were verified by the affidavit of one Sydney Bloomberg in his alleged capacity as a director.

The annual returns for the years 1954 to 1958 inclusive were certified by him also in his alleged capacity as a director. The fact that Bloomberg apparently was not a director when he verified and certified the returns as hereinbefore stated was not detected until the annual returns of this corporation came under investigation in the proceedings before me.

The annual returns for the years 1959 and 1960 were filed on October 25, 1961. They were sent back to the company from the Department of the Provincial Secretary to be amended. I cannot quite understand the purpose of the amendment but in any

event an amended return for those years was filed on December 13, 1961, and showed the directors for those years to be three persons by name Colucci, Klein and Downes. The return for the year 1960 showed that there had been no annual meeting since November 23, 1959.

On November 3, 1961, as a result of information received, members of the Metropolitan Toronto Police Department conducted an investigation at the premises known as 456 Spadina Avenue in the City of Toronto. There they met Klein who identified himself as Vice-President of Humber Bay Community Association and stated that that association had been carrying on its activities at that address since October, 1961. Questioned as to when and how he had become Vice-President he stated that he had been elected at some meeting in a house in Etobicoke but he could not remember the address. It is not without significance that Downes who was shown as a director in the annual returns for 1959 and 1960 lived at 9 Smithfield Drive in the Town of Etobicoke which was owned by Feeley and/or McDermott. He is the same man who was identified as participating in the bookmaking operations that were carried on at the famous Jordan Club to which club reference will be made by me later in this report.

On November 6, 1961, members of the Metropolitan Police conducted another raid at 456 Spadina Avenue and there they met Colucci who stated that he was president of this association. He did not know who elected him and said he was going to resign immediately. He had certified the annual returns of

the association for the years 1959 and 1960 in his capacity as president. On November 23, 1961, the Department received a letter from Colucci stating that he had resigned as of November 10, 1961.

By December 4, 1961, the affairs of this corporation had come under the scrutiny of the Deputy Provincial Secretary who on that date wrote to it requiring it to produce its books by way of a special return. On December 7, 1961, the Department received a letter from Klein in his alleged capacity as secretary of the association stating that he could not locate the books and records. Under date December 22, 1961, this charter was cancelled on four grounds:

- (1) failure to comply with the demand for a special return
- (2) that the charter limited the activities of the association to the Township of Etobicoke and in violation of that limitation it had operated in the City of Toronto
- (3) for purporting to operate after its corporate powers had been forfeited for non-user under Section 27 of The Companies Act
- (4) for having moved the location of its premises without the consent of The Provincial Secretary contrary to Section 291 of The Corporations Act.

Something had happened back in 1957 - I do not know what it was - that prompted Lewis, one of the original incorporators, to get in touch with the Department of The Provincial Secretary with respect

to this charter. On December 10, 1957, he telephoned the Department and asked for a certified copy of the charter and at that time told the Department that Gair had died in 1954 and that Rowan had moved to Australia. At that time the Department seemed to have taken the view that the association had lost its corporate powers by reason of non-user and the fact that Lewis had asked for a certified copy of the charter was apparently taken as some indication that he proposed to ask for a revivor of the corporate powers under Section 325 (3) of The Corporations Act. In fact he never applied to have those corporate powers revived. Lewis was interviewed by the police in December, 1961, and stated, as was the fact, that he had been one of the original incorporators and an officer of the club but he could not remember whether he was president or vice-president or secretary-treasurer; that it came as a real surprise to him to find that the charter was still in existence, and that the association was ostensibly occupying premises on Spadina Avenue.

I have very grave doubts that either Colucci, Klein or Downes ever had the books or records of this company. They acquired some knowledge some place that this charter was still extant and then proceeded to act as though they were members of the club when in fact they had never become members and not having become members of course they could not be elected officers. It is implicit in Lewis's report to the police that he and Gair and Rowan were the only persons who at any time had been members of this club.

When the police began to inquire into its operations Colucci quickly reacted and stated that he was going to resign promptly and he wanted to get the fact that he did resign on the records in The Provincial Secretary's Department. If I am right then this club was never moved from the Township of Etobicoke to the City of Toronto and therefore it did not breach the provision in the charter which limited its activities to the Township of Etobicoke. Colucci, Klein and Downes conspired with one another to make it appear that they were members when in fact they were not and misled the Department of The Provincial Secretary into believing that this club as an entity had moved to the City of Toronto. It will be unfortunate if no way can be found to penalize them. The time has now expired for invoking Section 339 of The Corporations Information Act but it is not too late to investigate the conduct of Bloomberg and I would strongly recommend that this whole matter be referred to the Department of The Attorney General to take such proceedings as the circumstances may justify.

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GLENBROOK COUNTRY CLUB

This club was incorporated by letters patent back in 1927. The original incorporators were office incorporators but it is clear that it was incorporated for the purpose of organizing and operating a golf club in the County of Essex. That objective was never attained. The head office of the corporation would appear to have remained in the

offices of the solicitors for the corporation in Windsor.

The corporation was almost constantly in arrears in filing its annual returns. From those returns it appears that the last annual meeting of the corporation until it moved its activities to Toronto was on December 31, 1942.

The name of one Sam Karovitz appeared on the annual returns for 1948 to 1950 as a director. On November 19, 1949, one Alex Barron of the City of Windsor wrote a letter to the Department of The Provincial Secretary. It is really picturesque and I cannot do better than quote it:

"Writing on behalf of my fellow worker, Mr. Sam Karavitz, in reply to the enclosed, Sam claims that (1) he has not been in Toronto for 17 years (2) he does not belong to any country club and never did (3) he thinks this a very obvious error in your Department or else a bad joke on someone's part in using his name (4) or else a very bad case of mistaken identity.

Sam works here as an ordinary stockman and has been known to the writer for over 12 years. He answers to the nickname Johnny and no more unlikely-looking (the next word is illegible) ever belonged to a country club. The delay in writing was due to the writer's illness.

Yours truly,
Alex Barron".

On May 28, 1958, notice was received in the Department of The Provincial Secretary that the head office of the corporation had been changed from the County of Essex to the City of Toronto and the annual returns filed for 1958 showed a complete change in the directors.

The next we hear of this club its name crops up at 3263 Dundas Street West in the City of Toronto.

On May 2, 1959, as a result of complaints members of the Metropolitan Toronto Police Department raided those premises and there they found among other things a number of membership application forms for membership in Glenbrook Country Club and Greek-Canadian Club. One Musa Shaba and others were charged with keeping a common gaming house on those premises and thirteen persons charged as found-ins. Shaba and one Duncan were convicted on the keeping charge and the found-ins were also convicted as such. Shaba was interrogated by the police about the Glenbrook Country Club and the Greek-Canadian Club and he stated that the charters for both these clubs had been offered to him for \$2,000 each and if he was interested in purchasing them he should get in touch with a certain Toronto lawyer (he did not name him) and he had decided not to purchase them.

On February 13, 1960, as a result of complaints members of the Metropolitan Toronto Police Department raided the premises at 799 Dundas Street West. These premises had formerly been operated by still another club, by name Athene Social Club, but at the time of the raid they were being occupied and operated by Glenbrook Country Club. The charter of the Athene Club had been cancelled just the week before. One Archie Adler was in charge at the time of the raid and told the police that he had been a director of the Glenbrook Country Club for a week. When asked by the investigating officers how much he had paid for this charter he replied "You don't expect me to tell you, do you?" However, he went on to say that

he had paid a corporation lawyer \$500 to make sure there were no loopholes.

As a result of the information gathered by the police on that raid Adler was charged with keeping a common gaming house and 39 other persons charged as found-ins. They all pleaded not guilty and the magistrate on the evidence found himself constrained to dismiss all charges but he observed that the evidence proved conclusively that the club was not a bona fide social club and that it was a ridiculous effort using the Glenbrook Country Club charter at 779 Dundas Street West and with a membership of Italian immigrants.

Under date February 18, 1960, The Provincial Secretary wrote to the club requiring it to produce by way of a special return all the books of the club since incorporation to date including the minute books, the members' registers and the books of account. That demand was not satisfied and under date February 29, 1960, the Deputy Provincial Secretary wrote the company advising that because of the failure to comply with that demand the charter would be cancelled one week from February 29, 1960. The charter was not in fact then cancelled because a gaming charge was then pending against the club. That created a unique situation. If the charter were cancelled prior to the trial on that charge that would have terminated those proceedings; there would have been no accused against which to continue the proceedings.

On March 26, 1960, another raid was conducted by members of the Metropolitan Toronto Police at these premises. Adler was still in charge. There were 35

men sitting around playing cards but there was not sufficient evidence to justify the laying of a charge. Adler was interrogated and said that he did not have any charter but he expected one on March 29th from his lawyer and that pending the obtaining of the charter he was bearing all the expenses and keeping the men more or less in a group and he said he thought his lawyer had the charter of the Glenbrook Country Club.

Under date April 14, 1960, a report was received by The Provincial Secretary's Department reporting on the raid of February 13, 1960, the dismissal of the charges and the magistrate's observations; and also reporting on the raid on March 26, 1960, and giving the information then conveyed by Adler to the police and which I have just set out strongly recommending cancellation of the charter. On receipt of that report the Deputy Provincial Secretary referred the matter to a solicitor in the Department and the matter came under advisement and was still apparently being considered in September, 1960.

On September 23, 1960, the members of the Metropolitan Toronto Police Department conducted another raid on these premises as a result of which one Dennis Lomuti was charged with keeping a common gaming house there and fifteen persons charged as found-ins. They were convicted on November 11, 1960, and as a result of the conviction the charter was cancelled on December 11, 1960.

PRESTON AMATEUR ATHLETIC AND SOCIAL CLUB OF OTTAWA

This club was incorporated by letters patent on October 14, 1935. Its predominating objects were athletic. Among the incorporators was one William Richard Dawson. Almost from its inception the club fell into arrears in the filing of its annual returns. The 1937 returns were apparently filed in time.

On May 1, 1947, the solicitors who had incorporated the club in the first instance wrote to The Provincial Secretary's Department requesting The Provincial Secretary to assist in bringing the club returns up to date. The solicitors advised the Department that the club had been dormant during the war years. The Department advised the solicitors that the annual returns for 1936 and for the years 1938 to 1946 inclusive were in arrears.

On June 6, 1956, R.W. Dawson who identified himself as president of the club advised the Deputy Provincial Secretary that all the annual returns then in arrear would be filed and, following that, the returns for 1936 and each of the years 1938 to 1956 inclusive were filed.

In the returns for those years two of the directors listed were L.M. Thompson and B.J. Randall. Subsequent investigation by the police and to which I shall be referring in a moment disclosed that they were daughters of R.W. Dawson and in 1936 one of them was only five and the other four years of age.

This club came to the attention of the Metropolitan Toronto Police on January 6, 1958, when the members of that force conducted a raid at 396

College Street, Toronto. One Saul Bergstein was on the premises and identified himself as the club steward. He stated that for the past year the premises had been occupied by the Orillia Athletic and Social Club. It was a corporation incorporated under the laws of the Dominion of Canada. Bergstein stated that there had been a change in management - whatever he meant by that - and that the charter of the Preston Athletic Club was to be substituted on these premises for that of the Orillia Athletic and Social Club.

Further raids were made on these premises by the members of the Metropolitan Toronto Police Department on May 26 and November 25, 1959, and May 31, 1960. The information that the Preston Amateur Athletic and Social Club of Ottawa was in possession of these premises and carrying on operations there was conveyed to the Department of The Provincial Secretary and on September 2nd, 1960, the Department requested the Ontario Provincial Police to investigate. Investigation by them disclosed that all of the returns for 1936 and for 1938 to 1956 inclusive were false in that they showed two of the daughters of R.W. Dawson as being directors in each of those years. The police interviewed those daughters and ascertained from them their age and that the charter had been sold by their father in 1958 to some unknown person.

From the observations conducted by the Metropolitan Toronto Police at 396 College Street it was abundantly clear that these premises were being used for illegal purposes including bookmaking and were frequented by known professional gamblers. The charter

was not cancelled until December 6, 1961, and then on two grounds, namely evidence of illegal gaming and purporting to operate after its corporate powers had been forfeited.

Actually the corporate powers of this club had been forfeited back in the early forties for non-user by virtue of Section 27 of The Companies Act and the letter from the solicitors on May 1, 1947, had conveyed that knowledge to the Department. The corporation could have applied under that section for a revivor order reviving those powers but it did not.

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GREEK-CANADIAN SOCIAL CLUB

This club was incorporated by letters patent dated April 22, 1915. The head office of the club was in the City of Ottawa. There were no annual returns filed until March 31, 1922, on which date the returns for each of the years since incorporation were filed. Thereafter the annual returns were filed regularly in each year up to and including 1953 when they again fell in arrears.

The returns that had been filed up to 1953 showed among others three persons by name Bergeron, Barrette and Diamend as being directors. It would appear that for some time prior to August, 1954, the Department of The Provincial Secretary had been pressing to have the annual returns then in arrear filed and in that connection had written those three persons. In August, 1954, Bergeron wrote to the Department stating that he had never been a director of the club, had never consented

to being one and had no knowledge of how his name became associated with the club. In the same month Barrette wrote the Department stating that he had never attended any meeting of this club nor consented to be elected a director, and a similar letter was received that same month from Diamend.

On February 25, 1957, the returns for each of the years 1954, 1955 and 1956 were filed apparently as a result of a demand from the Department. They continued to show Bergeron, Barrette and Diamend among others as continuing to be directors.

On April 17, 1957, Barrette again wrote the Department and referring to the Department said "If my name still appears in their records it must be by error because they have been well advised in August, 1954, that I have nothing to do with the club in question".

In the annual returns filed in 1958 one Earl Harrigan certified that Bergeron, Barrette and Diamend had been elected directors of the club in 1957. No inquiry was made as a result of the disclaimers that had been received from Bergeron, Barrette and Diamend.

The next thing that happened was that on January 16, 1959, the Deputy Provincial Secretary wrote to the club at 1289 Bloor Street West asking for the production of the club's books. In his evidence before me the Deputy Provincial Secretary could not recall why he wrote to that particular address in the light of the fact that all communications from the Department prior to that date had been addressed to Ottawa. He assumed that he wrote to 1289 Bloor Street West because of information that had come to him from the Toronto Police. The Deputy Provincial Secretary's assumption may be correct but I have some doubts about it. From the evidence it appears that the first knowledge the Toronto

Police had of the existence of this club was obtained by it during a raid on March 7, 1959, at 1601 Dundas Street at which time and place they found some telephone and Hydro-Electric bills that indicated that this club had in January, 1959, been operating at that address. Also in January, 1959, the Deputy Provincial Secretary wrote a Mr. Couseneau in Ottawa. He had been shown as a director of the club as far back as 1957. Couseneau wrote a rather cryptic reply in which he said "Wrong name, wrong address, wrong province. It is all Greek to me".

Following the finding of the telephone and Hydro-Electric bills at 1601 Dundas Street on March 7 the police apparently received some information that the club was operating at 1289 Bloor Street West and they made inquiries there from one Fitzgerald who was apparently residing there. He stated to them that he had no knowledge of any club operating at that address and knew nothing about the Greek-Canadian Social Club. However, from the evidence given before me by Mr. Louis Herman, solicitor, it appears that on January 20, 1959, this same Fitzgerald had consulted him and stated that he was a member of a branch of the Greek-Canadian Social Club which was operating at 1289 Bloor Street West and he brought Mr. Herman the letter that the Deputy Provincial Secretary had sent to that club at that address.

I pass on now to the date May 2, 1959, that being the date of the raid by the Toronto Police at 3263 Dundas Street West. You will recall that earlier in this report when dealing with Glenbrook Country Club I referred to that raid and pointed out that at that time the police found a number of membership cards for Greek-Canadian Club as well as a number of membership

application forms for membership in the Glenbrook Country Club and during that raid Musa Shaba had told them that he had been offered both charters for the sum of \$2,000 and that if he were interested he could get them through a Toronto lawyer but he did not name the lawyer.

Referring back now to the consultation that Fitzgerald had with Mr. Louis Herman, Fitzgerald was either accompanied at that time by one Mongoen or he was alone and gave Mr. Herman Mongoen's name and address. Whichever was the case Mr. Herman as a result of some information received by him from Mongoen was in communication with a firm of lawyers in Ottawa relevant to the production of the club's books but according to Mr. Herman they were never received by him.

The Deputy Provincial Secretary kept pressing Mr. Herman to produce the books and gave him a number of ultimatums that if they were not produced the charter of this club would be cancelled. They were not produced by April 3, 1959. On that date the Deputy Provincial Secretary discussed the matter with the Minister who then gave instructions to prepare an order for cancellation dated April 3rd.

The charter was not cancelled until December 29, 1959. I am not impressed by the reasons given for that delay. A solicitor in the Department gave a memorandum to the Deputy Provincial Secretary stating in substance that while it appeared that the charter should be cancelled he thought cancellation should be delayed pending some prosecution against another club, by name Union Jack (Toronto) Social Club, with which

it was suggested Greek-Canadian Social Club had some affiliation in illegal activities. If there was some such affiliation that would merely be an additional reason for cancelling the charter but in my opinion no additional reason was necessary. The matter was discussed between the Deputy Provincial Secretary and his Minister and it was decided to withhold the cancellation.

The Deputy Provincial Secretary in his evidence before me gave another reason for the delay. He said that he thought at the time that if the charter were cancelled the books would disappear and they might be of assistance in the case of the prosecution of the Union Jack Club. The books could not disappear unless they first appeared and if they appeared and were filed with the Provincial Secretary's Department then the failure to produce them would not be a ground for cancellation.

Summarizing: -

(1) The disclaimers by Bergeron, Barrette and Diamend in my opinion called for an investigation at that time. If their statements were true then false returns had been made and those making them were liable to prosecution and those false returns would have been sufficient cause to cancel the charter.

(2) There was evidence before The Provincial Secretary's Department that this charter had been offered for sale which would also have been "sufficient cause" for cancellation.

CLUB BERNARD

This corporation was incorporated by letters patent dated January 6, 1948. The application for incorporation was referred to both the City of Toronto Police and the Ontario Provincial Police neither of which police forces had any objection to the incorporation.

Under date of October 6, 1955, the City of Toronto Police submitted a report to The Provincial Secretary recommending the cancellation of this charter. The details of this report were not dealt with in the evidence before this Commission. By letter dated November 25, 1955, the Deputy Provincial Secretary wrote to the City of Toronto Police advising that he had discussed the matter with The Provincial Secretary and on the evidence before them it was not possible for them to cancel the letters patent. He suggested that if the police could find some further evidence of misconduct on the part of the club every consideration would be given to cancelling the charter.

Under date June 1, 1961, the Metropolitan Toronto Police Department submitted a second report to The Provincial Secretary outlining the history of this club particularly in relation to premises at 560 King Street West where it was then operating.

In 1956 those premises had been occupied by St. Patrick's Recreation Club. In 1957 that club moved to 41-43 Clinton Street. That was the former address of Springburn Recreation Club whose charter had recently been cancelled because of a conviction for operating a common gaming house there. On July 9, 1960, the letters patent of St. Patrick's Recreation Club were cancelled because of a gaming house conviction

at the Clinton Street address.

Following the departure from 560 King Street West of St. Patrick's Recreation Club it was succeeded at that address by Spadina Social and Card Club with which I have dealt elsewhere in this report. Its charter was cancelled on May 21, 1960, because of a gaming house conviction at that address and following its demise it in turn was succeeded by Club Bernard. On April 14, 1961, Joseph Tripodi and Frank Pucci were convicted of keeping a common gaming house at that address.

The police report also drew attention to one rather interesting aspect of the game of musical chairs being played by those clubs. Joseph Tripodi, Joseph Klein and Lou Brickman became directors of the St. Patrick's Recreation Club in 1956 when that club moved to 560 King Street West. When the St. Patrick's Recreation Club moved to 41-43 Clinton Street in 1957, Tripodi, Klein and Brickman resigned and then became directors of the Spadina Social and Card Club which had then moved into 560 King Street West. Tripodi, Klein and Brickman did not become directors of Club Bernard when it moved into 560 King Street West but it was the same Joseph Tripodi who was convicted of keeping a common gaming house when those premises were occupied by Club Bernard.

The Provincial Secretary's Department upon receipt of this report notified the club that unless cause were shown to the contrary the charter would be cancelled. No hearing was requested by the club and by an order dated July 10, 1961, the charter was cancelled because of the gaming conviction.

CLUB "U"

I may say at the outset that there was nothing in the evidence before me that in any way reflected adversely on the Department of The Provincial Secretary so far as this club is concerned. The club was incorporated on September 16, 1947. Its charter restricted its operations to the City of Toronto but not to any particular address in the city. It at one time had been carrying on its activities at 1201 St. Clair Avenue West in premises above a restaurant.

On November 13, 1959, as a result of complaints received by the Metropolitan Toronto Police Department those premises were raided and it was found that Club "U" had vacated those premises some time prior to that date and that they were then occupied by an organization called Kells Club. On that raid two persons were arrested and charged with keeping a common gaming house and twenty-three persons were arrested as found-ins. On January 28, 1960, one of the alleged keepers pleaded guilty and was fined \$200 and in default of payment two months imprisonment. The other pleaded not guilty and the charge against him was withdrawn by the Crown. All the found-ins pleaded guilty and were each fined \$10 and in default of payment five days imprisonment. The charter of the Kells Club was subsequently cancelled.

During the investigation by the Metropolitan Toronto Police the proprietor of the restaurant, one Enrico Cimini, was interviewed and he told the police that he had possession of the charter for the Club "U"; that he and one Egisto Federichi had carried on the restaurant business as partners; that Federichi had

bought the charter from one Thomas O'Neill, a lawyer, and had paid \$2,000 for it. Subsequently Cimini bought out his partner's interest in the restaurant paying \$6,000 for it and his partner had left the charter for the "U" Club at the restaurant. Cimini in his statement to the police indicated that the charter was an asset purchased by him from his partner and, directing his observation to it, he said that "it cost me plenty".

Shortly after the raid Cimini was approached by one Frank Martino identified as being connected with the St. Patrick's Recreation Club to which I have earlier referred who stated that he would like to get the charter but that he wanted his lawyer to see it first. The charter was handed by Cimini to Martino but no price was apparently then agreed upon.

Martino then took the charter to his lawyer. The lawyer was interviewed and stated that he had been consulted by Martino and one Demisci who was an officer of the club and that they had stated that the club had lost its premises at 1201 St. Clair Avenue West and wanted to acquire other premises and in the meantime have the affairs of the club tidied up and the minutes brought up to date.

When these facts were brought to the attention of The Provincial Secretary's Department a demand was made upon the club for a special return under the relevant section of The Corporations Information Act. That demand was not complied with and the charter was cancelled on June 16, 1961, for failure to produce its books pursuant to that demand.

COLUMBIA BRIDGE CLUB

This club was incorporated by letters patent dated July, 1936. Those letters patent could have been cancelled at any time after 1939 and up until 1955 because no annual returns were filed until 1955 when the returns for each of the years 1937 to 1955 were filed all at once. I should have thought that the filing of annual returns covering eighteen years all at one time would have excited some curiosity as to the reason therefor. Was it because of oversight having just been discovered or misunderstanding suddenly removed or was it because for eighteen years the corporation had not actually been functioning and now its affairs were being put in order to enable it to resume its operations? Whether or not any of those questions occurred to those in charge in The Provincial Secretary's Department the fact remains that no inquiry was made as to the reason for the returns for eighteen years suddenly being filed all at once.

In February, 1960, investigation of this club was conducted by the Metropolitan Toronto Police Department and in the light of what was then discovered it is apparent what would have been learned back in 1955 had the filing of eighteen years annual returns excited the curiosity of those in charge in the Department of The Provincial Secretary.

Those who appeared to have become officers of the club immediately after incorporation were four in number and their street addresses were given. The police interviewed two of them. One stated that he had never heard of the club and never gave anyone permission to use his name. The other had a hazy recollection of someone having asked him if his name

might be used. He apparently agreed but thereafter he heard nothing more about it. He knew nothing about the operations of the club and had never attended a meeting. The third officer had moved away from the City of Toronto and he was not interviewed. The police went to the address of the fourth officer and there interviewed a woman who had lived at that address for forty years with her mother and father and two younger brothers. Although their surnames were the same as the fourth director there was no one having the christian name of that director who, during the forty year period, had ever lived at that address.

In the annual returns for each of the years 1936 up to and including the year 1953 the officers and directors were shown to be the same as at the time of incorporation. In 1954 they were all changed.

Had all the foregoing been ascertained by the then Provincial Secretary's Department in 1955 I feel confident that the existence of this particular corporation would have been quickly terminated and probably proceedings taken under the relevant sections of the Act against those responsible for having filed false returns.

This club moved the site of its operations from place to place, including 460 Spadina Avenue and 372½ Yonge Street in the City of Toronto and was at the latter address at the time of the police investigation in 1960. By the terms of its charter its activities were not limited to any specific address and I may remind you that Section 291 of The Corporations Act was not passed until 1960. While the operations of the club were at both of those addresses there had been numerous complaints filed with the

police of illegal gaming and betting activities being carried on there. These complaints led to investigations from time to time and it was found that this club was being frequented by a large number of persons with criminal records not only with respect to gaming and betting but including breaking and entering and theft, fraud, assault and dealing in narcotics.

The report of the Toronto Police Department to The Provincial Secretary's Department was dated February 17, 1960, and after it was received no time was lost in proceeding to cancel this charter and it was cancelled on March 23, 1960. There was some suggestion in the evidence that \$3200 had been paid for this charter but I am unable to say on the evidence before me that that was the fact.

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SORAUREN SOCIAL CLUB

This club was incorporated by letters patent dated December 24, 1946. The letters patent were cancelled on December 22, 1960, following the conviction of the club for operating a gaming house at 280 Yonge Street in the City of Toronto. The conviction was on October 31, 1960.

The annual returns for the years 1946 to 1950 were not filed until February, 1951, and the annual returns for the years 1951 to 1953 were not filed until 1954. The annual returns for the years 1954 and all succeeding years were filed regularly.

In 1959 (according to the annual returns filed for that year) there was a new slate of officers elected.

Following the raid on the premises at 280 Yonge Street and that led to the conviction of the club members of the Toronto Police Department interviewed some of the persons who had been shown in the annual returns up to and including 1958 as directors. They stated that they had never been active members of the club and had signed the application for incorporation as a favour to one Samuel Kertzer who apparently had been one of the prime movers in obtaining the letters patent; that in the years immediately prior to 1959 the club had been inactive, and that in 1958 Kertzer had indicated that he was going to see to it that the charter was surrendered. There was also evidence that following that raid one of the new elected officers had told the police that he had heard some time prior to September, 1959, that the charter for this club was available to anyone interested in acquiring it through a lawyer, Sol Gebirtig.

The inference is clear that up until 1959 Kertzer was the "big wheel" in this club and was responsible for its rejuvenation in 1959. It may well be that he continued to be the "big wheel" in it thereafter.

There was nothing at any time that came to the attention of the Department of The Provincial Secretary prior to the report to it of the conviction on October 31, 1960, that reflected adversely on the operations of the club. That conviction was reported to the Department in November, 1960, and the Department lost no time in cancelling the charter.

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BATHURST-SHEPPARD SOCIAL AND ATHLETIC CLUB

My report in connection with this club must necessarily commence with a review of the history of another social club, by name Garment Centre Recreation Club. It was incorporated by letters patent dated March 4, 1937, and its activities were carried on at 3015 Bathurst Street.

On September 12, 1959, members of the Metropolitan Toronto Police Department conducted a raid on these premises and as a result five persons, namely Samuel Freedman, Walter Pock, Albert Seigel, Harold Schiff and William Mandel were charged with keeping a common gaming house there, and nine other persons including one Herbert Cooper were charged as found-ins. On October 28, 1959, Albert Seigel and Walter Pock were convicted of keeping a common gaming house there. The charges against Schiff, Freedman and Mandel were reduced and as a result they and the other nine found-ins were convicted as such.

On November 18, 1959, Metropolitan Toronto Police Department reported these convictions to The Provincial Secretary and on December 16, 1959, the charter of that club was cancelled.

Turning now specifically to Bathurst-Sheppard Social and Athletic Club:

It was incorporated by letters patent dated November 20, 1959, and the location of its proposed activities was 646 Sheppard Avenue West in North York. On June 8, 1960, members of the Metropolitan Toronto Police Department conducted a raid on these premises and they discovered some most significant facts. The club records showed that Walter Pock who had been

convicted as a keeper at the premises of the Garment Centre Recreation Club had been a steward of this club for several months and at the time of the raid Samuel Freedman who had been originally charged as a keeper at the Garment Centre Recreation Club but convicted as a found-in there was the steward of the Bathurst-Sheppard Social and Athletic Club. Inquiries by the police disclosed that at the time of the raid Herbert Cooper who had been convicted as a found-in at the Garment Centre Recreation Club was Vice-President of Bathurst-Sheppard Social and Athletic Club. Subsequent inquiries were made by members of the Metropolitan Toronto Police Department and they were informed by one Seymour Kazman that he was President and that Freedman had a power of attorney and was running the club by himself.

The charter of this club was cancelled on April 10, 1962, for breach of the prohibitory clause in its charter.

It is perfectly clear that application was made for the incorporation of this club at the time when the charter of the Garment Centre Recreation Club was in jeopardy and almost certainly to be cancelled. The association of Walter Pock and Samuel Freedman with those two clubs and the facts ascertained by the police that the membership in the Bathurst-Sheppard Social and Athletic Club to a large extent was the same as the membership in the Garment Centre Recreation Club makes that conclusion irresistible. However, I want to make it perfectly plain that the Department of The Provincial Secretary had no information at the time that the letters patent were granted incorporating Bathurst-Sheppard Social and Athletic Club that would indicate to it that the purpose intended to be served

by obtaining those letters patent was that it should take the place of the Garment Centre Recreation Club.

I refer you to Section 6 of The Corporations Act which requires an applicant for incorporation to "furnish such evidence of the bona fides of the application as The Provincial Secretary deems proper" and Section 2 of Regulation 60 under The Corporations Act which requires that evidence of the bona fides of every application for incorporation of a corporation without share capital shall be furnished by filing with the application an affidavit of one of the applicants that he has satisfied himself that no public or private interest will be prejudicially affected by the incorporation of the corporation. If the incorporation of this club was for the purpose of having it supplant Garment Centre Recreation Club as a vehicle to enable the continuance of the unlawful activities carried on at that club then at least some doubts would arise as to the good faith of the deponent in the affidavit made by him pursuant to Section 2 of Regulation 60.

I recommend that Section 2 of that Regulation be strengthened to guard against a repetition of what occurred in this instance.

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CENTRAL RECREATION CLUB

This corporation was incorporated by letters patent dated October 24, 1934.

The club premises were located at 249 Victoria Street in the City of Toronto. For a number of years the police suspected that illegal gambling activities were being conducted there. In November, 1956, a charge of keeping a common betting house at that address had been laid against one Nathan Revin, 76 St. Anne's Road, and George Lumsden, 419 Ossington Avenue. Several persons were also charged as being found-ins. The charges against the two alleged keepers had been dismissed and those against the found-ins withdrawn.

During the period March 31, 1958, to January 26, 1959, the police raided the club on numerous occasions. On each of those raids Nathan Revin was in charge of the premises. He advised the police that he was not an officer but a member and was in charge of the club in the evening. He stated that he received no salary for his duties which included paying all club bills and collecting card fees from the players. On each investigation police found racing literature in the possession of the members. There were two telephones on the premises and when answered by the police during raids the person phoning either hung up the receiver or requested that bets be placed on certain race horses.

On January 26, 1959, Jack Katzman, 73 Baycrest Avenue, was arrested on a charge of recording and registering bets there. Slips of paper containing the names of race horses racing at various race tracks on that day, with amounts of money and the names of persons

written opposite the name of each horse, were found on him. He stated that he placed bets for friends who sometimes gave him money if they won. Nathan Revin was in charge of the club at this time and was engaged in conversation with Katzman when the police entered the premises. When questioned Revin stated that he believed that Katzman was a member of the club. The police then searched the club records but did not find Katzman's name. Revin then stated that Katzman was not a member. On February 4, 1959, Katzman pleaded guilty to recording or registering bets.

On February 18, 1959, one David Bates, 152 Oakwood Avenue, the operator of a newsstand at the corner of St. Clair Avenue West and Oakwood Avenue, was charged with engaging in bookmaking and recording or registering bets. When arrested Bates informed the police that the Central Recreation Club, 249 Victoria Street, handled any bets that he wished to lay off.

On March 16, 1959, notice was received in The Provincial Secretary's Department from Metropolitan Toronto Police advising of the conviction of Katzman on February 4 and also giving the other information the police had. The police recommended that the letters patent be cancelled.

On March 25, 1959, the Deputy Minister submitted a memorandum to the Minister recommending cancellation of the letters patent but nothing further was done within The Provincial Secretary's Department until February 19, 1960.

The Deputy Minister could not explain the delay. It was suggested that the Minister may have had some

doubts as to whether the evidence justified cancellation and put the file to one side and it was later mislaid or lost track of. He stated that early in 1960 many clubs were under review and it was probable that at that time this club was again brought to the attention of the Department by the police.

On February 19, 1960, the Deputy Minister notified the club that the charter was going to be cancelled unless the club showed cause to the contrary. A hearing was held. Following the hearing the Deputy Minister obtained an opinion from Mr. Bowman of The Attorney General's office regarding the Department's authority in the circumstances to cancel the charter. On the basis of the opinion given by Mr. Bowman the letters patent were cancelled on July 28, 1960.

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PORTUGUESE-CANADIAN ASSOCIATION OF TORONTO

This corporation was incorporated by letters patent dated November 14, 1956. It has been dealt with earlier herein with respect to pre-incorporation proceedings.

Under date of November 5, 1958, The Provincial Secretary's Department received a report from the Metropolitan Toronto Police stating that on September 23, 1958, one Daniel Arruda and Joseph Menezes pleaded guilty to keeping liquor for sale on the corporation's premises contrary to the Liquor Control Act.

Following receipt of that report notice of intended cancellation was sent to the corporation; a hearing was requested and was held on January 13, 1959.

Following that hearing there were some discussions back and forth between the Minister and his Deputy and between the Minister and Mr. Allan Grossman who was the local member for the riding in which the corporation was carrying on its activities. The evidence is not clear as to why Mr. Grossman entered into the discussions but it would appear that the Minister invited him. Mr. Grossman then looked into the matter and approved the cancellation and the charter was cancelled on April 22, 1959.

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NEW CANADIAN SOCIAL CLUB

This corporation was incorporated by letters patent dated June 5, 1945 and pre-incorporation proceedings relating to it have been discussed earlier herein.

By its letters patent the club's activities were limited to the City of Toronto.

It would appear from the files in The Provincial Secretary's office and from police observations that the corporation occupied premises at 360-362 Queen Street East for a number of years.

On January 4, 1956, as a result of complaints received of illegal gambling activities being conducted at 249 Victoria Avenue, the police investigated and found those premises occupied by this club.

Later in 1956 the club changed the location of its premises to 364 Queen Street East where it remained until December of 1960.

It will be recalled that on April 12, 1960, The Corporations Act was amended to provide that the prior consent in writing of The Provincial Secretary was required for the change of the location of any of the premises of a corporation with objects in whole or in part of a social nature.

On December 14, 1960, the Department received a letter from the club's solicitor advising that the club had changed its head office from 364 Queen Street East to 372 Queen Street East. Further inquiry by the Department disclosed that the club proposed to change not only its head office but the location of its premises from 364 Queen Street East to 372 Queen Street East and that was confirmed by a letter from the solicitor dated December 16. Accordingly on December 16, 1960, the Deputy Minister informed the club solicitor of the necessity of obtaining the prior consent of The Provincial Secretary to such a move. The formal application to change the location of the club's operations was received on December 29, 1960.

Apparently in anticipation of that application it had been referred to the Provincial Police and the Metropolitan Toronto Police on December 20, 1960.

Under date of January 5, 1961, the Provincial Police reported that the club had in fact moved to the new address on December 15, 1960, and that the Metropolitan Toronto Police had raided 372 Queen Street East toward the end of December and three persons had been charged with keeping a common gaming house at that address. The Provincial Police opposed the application to move.

On January 12, 1961, the Department advised the club solicitor that the application to move had been refused.

On March 8, 1961, the Department received a report dated February 28, 1961, from the Metropolitan Toronto Police. This report not only recommended that the application for change of address be refused but also that the letters patent be cancelled.

This report noted that this club had been investigated by the police while it was operating at 360-362 Queen Street East and 249 Victoria Avenue. Although it was suspected that illegal gaming activities were being conducted on those club premises the police had been unable to obtain sufficient evidence for a prosecution.

After the club moved to 364 Queen Street East complaints were received by the police of illegal gambling activities at this address. The police were unable to obtain sufficient evidence of gaming to prosecute. The police did observe that Eftoff, Photeis and Christoff were the operators of this club and were carrying on a prosperous restaurant business with those frequenting the club.

The report stated that on December 27th and 28th investigations had been made by the police and it was ascertained that the club had already moved into the new premises at 372 Queen Street East on December 15, 1960. It was also learned that James Christoff and Louis Photeis had invested a large amount of money in purchasing and renovating the building and that they were conducting a profitable restaurant business there. The police interviewed Christoff and Photeis and learned that the restaurant business was their own

private enterprise and they alone received all the profits. They charged the club \$225 per month for rent and the club paid them \$40 as a salary. All membership dues and card fees charged were placed by them in the same cash register as the receipts from the restaurant business. There were no separate records kept by them or anyone else pertaining to the club's meetings, financial status or social activities. Photeis stated that the objects set forth in the charter were not adhered to as the operation was primarily a restaurant. The two men had been active directors of the club for the two previous years.

As a result of this investigation Louis Photeis and James Christoff were convicted of keeping a common gaming house and fifty-nine persons were convicted as found-ins. In his Reasons for Judgment the Magistrate found that from the method of operation the club was not a bona fide organization and the letters patent were used as a sham to cover the financial operations of the two directors, Photeis and Christoff. Copies of the certificates of conviction were forwarded to The Provincial Secretary's office.

On May 31st, when the Deputy Minister returned to his office after an illness, a letter was sent to the club stating that because of the two convictions on the premises occupied by the club the charter would be cancelled for cause unless reasons were shown to the contrary. Shortly thereafter the Department was informed by the club solicitor that the convictions were under appeal and a stay of proceedings was requested and granted until the appeal was disposed.

On December 20th, 1961, the convictions were quashed on appeal but on December 27th, 1961, the Deputy Minister wrote the club pointing out that in

December, 1960, the club had changed the location of its premises without the prior consent of The Provincial Secretary contrary to Section 289a (now 291) of The Corporations Act and advising that unless cause were shown to the contrary an order would be made cancelling the letters patent for that cause. A hearing was held on January 18, 1962, and on March 16 the club's solicitor was notified that the charter was cancelled effective April 16, 1962.

On April 12, 1962, the corporation, through its solicitors, applied to the Supreme Court of Ontario by way of certiorari to quash the cancellation order. That application was dismissed.

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ARLINGTON ATHLETIC CLUB

This corporation was incorporated by letters patent dated October 29, 1923. The head office was to be in the City of Toronto.

Under date of April 30, 1929, one Saul Simon who had been one of the petitioners wrote to the Department stating that the club had ceased to be active in 1923. Simon enquired as to what was necessary to keep the charter in good standing in case of re-organization.

Under date of October 29, 1930, a memorandum was received from the Controller of Revenue stating that the club's solicitor, D.B. Goodman, had advised the Controller of Revenue by letter that the corporation had been out of existence since 1924 and that the location of the charter was unknown.

In 1934 the annual returns for the years 1924 to 1933 were filed. In those returns it was stated that the books of the corporation had been destroyed by fire. These returns showed one Harry Samuels, who had been one of the original incorporators, as a director from 1924 to 1933. Harry Samuels was not listed as a director in any of the annual returns filed thereafter.

Under date of June 27, 1935, the then Deputy Minister received a statutory declaration of Harry Samuels in which he declared that he had nothing to do with the club since 1924.

Under date October 13, 1936, Mr. G.W. Gardhouse, a solicitor, wrote to the Deputy Minister informing him that the returns for 1923 to 1934 showed certain people as directors who had never consented to act as such. Apparently acting for them he suggested that the charter should be cancelled under Section 38 of The Companies Act. Under date of October 17, 1936, a solicitor in the Department wrote to Mr. Gardhouse advising that the effect of the club's failure to operate was that the corporate powers had been lost but the charter still existed and the company was still a legal entity. About that time Mr. D.B. Goodman came into the picture again purporting to act on behalf of the club. He contended that the corporation had not forfeited its corporate powers.

There was some correspondence back and forth between the Department and these solicitors but as far as the file of The Provincial Secretary shows the issue was never resolved.

There was a complete change in the directors of the corporation in 1937 and again in 1938. One Charles Davey appears as president in 1938.

The annual returns for 1939 to 1942 were filed in March, 1943.

On November 14, 1955, the annual returns for the years 1945, 1947, 1950 to 1954 were filed. One Nathan Sandler was shown as a director in those years and he appears as the deponent in the affidavit verifying those returns.

In 1956 the directors changed completely and during the period of 1956 to 1960 the following appeared as directors:

Ernie Sharpe, Sam Scherosi, Louis Spizzirri, Michael Cutrara, Tony Cutrara, Jack Ellis, Sam Mülle and Hy Hayman.

Under date of January 26, 1962, the Metropolitan Toronto Police forwarded a report to The Provincial Secretary recommending the cancellation of this charter. This report shows that the club first came to the attention of the police on June 1, 1956, while it was located at 1628 Queen Street West. Sam Schirosi identified himself to the police as being in charge. He stated that the club had occupied the premises for about one month. A membership list of 102 was shown to the police. While the police were on the premises one Archie Adler, a convicted bookmaker, telephoned and asked the name of the winner of a horse race for that date. The police raided the club premises on other occasions between 1956 and the end of 1960 and on each occasion found men engaged in poker games on the premises.

On December 28, 1960, Samuel Mulle, 34 Milverton Boulevard, Secretary-Treasurer, and Ronald Martin, 70 Wheeler Avenue, Steward, were arrested on the club premises and charged with keeping a common gaming house there and also with a breach of the Liquor Control Act. Fourteen others were charged as found-ins. Both Mulle and Martin admitted to charging players ten cents an hour or fifty cents a day for the privilege of playing cards on the club premises.

On August 8, 1960, the police had interviewed Charles Davey, 1527 Mississauga Road, who first appeared on the annual returns in 1938 as president of the club. He gave the following signed statement to the police:

"Along with Nat Sandler, we acquired the Club Charter in 1939. It was political at that time and just how we got it and from whom I would rather not say. I operated the Arlington Club for about seven years and then I applied for a Public House license under the name of the Arlington Public House. When this was granted I had no use for the charter and it lay dormant for eight years. There were no meetings or club rooms maintained for it; in fact I had forgotten about it. It was about 1954 when I was approached and told that a person was interested in the Arlington charter, so I was able to file the returns for the past eight years which cost me \$8. I then turned the charter over to this man and received one thousand dollars for goodwill".

The police point out that although Davey states that he did not acquire the charter until 1939 he appears on the annual return for 1938 as president.

Nathan Sandler of 1 Manitou Boulevard, formerly of 2904 Yonge Street, who was shown as a director from 1945 to 1955 and who swore the annual returns was interviewed by the police on January 18, 1961. He stated that Charles Davey approached him with the charter and asked him to bring it up to date. He

stated that if his name appeared on the returns then he signed them.

Harry Betts, 22 Hillcroft Drive, formerly of 469 Gladstone Avenue, was shown as a director for the years 1944 to 1945. He told the police that he is a brother-in-law of Charles Davey and was not aware that the charter existed. He thought that Charles Davey had either given it away or sold it.

Tony Cutrara, 30 Longholme Drive, and Hy Hayman, 297 Ridley Boulevard, who were shown as president and director respectively for the year 1961, were interviewed at 37 Jarvis Street, their place of employment. Cutrara stated that to his knowledge Charles Davey was paid for the charter by an unknown man who intended to operate the club but who disappeared from the scene. Hayman did not confirm or deny this statement.

Louis Spizzirri, 619 Lansdowne Avenue, formerly of 331 Cedarvale Avenue, who was shown as vice-president from 1957 to 1959 stated that he had held this office while Tony Cutrara had the charter. He could not recall the exact date when he quit except that it was when "Simone" took over the charter. The police observed that when raids were made on the premises Roy Simone of 124 Hallam Street was present.

Following receipt of the police report viz. on January 31, 1962, the Deputy Minister reported to the Minister that from the police report

"it appears from investigation the corporate powers of the club were forfeited for non-user which would constitute grounds for cancellation of the charter. You will note that from the report the club has apparently changed hands a number of times and you will also note that two persons are charged with keeping a common gaming house on the club premises, which charges are still pending.

" However, notwithstanding the fact that these charges have not been disposed of, there are grounds at least for cancellation of the charter in view of the forfeiture of corporate powers and the cancellation of the charter would not affect the prosecution as it is not the club that is charged".

On February 3, 1962, the Minister directed the Deputy Minister to take the appropriate proceedings to cancel the charter on those grounds and on February 9, 1962, the club was notified that the letters patent would be cancelled for cause on February 19, 1962.

On February 20, 1962, a solicitor for the club telephoned the Deputy Minister and stated that he had been consulted by one of the directors of the club but as of that date he did not know whether the club wanted a hearing.

At his request the Deputy Minister granted an enlargement of one week. The Department was then notified that the club wanted a hearing and the Deputy Minister fixed March 7, 1962, as the date therefor.

On March 2, 1962, the Director of Companies wrote to the club's solicitor advising him that the hearing had been postponed sine die pending the disposition of the pending charges against Mulle and Martin. On May 22, 1962, they were convicted of keeping a common gaming house at the premises of the club. The Deputy Minister on the instructions of The Minister then fixed a new date for the hearing and also notified the club's solicitor that in addition to the grounds specified in the previous letter of cancellation the convictions would also be considered as grounds for cancellation.

Those convictions were appealed and it was agreed that the hearing would be postponed sine die pending the outcome of the appeals.

In July, 1962, appeals were also pending against convictions affecting the status of two other clubs, namely the Parthenon Club and the Atlas Club and The Provincial Secretary's Department had been advised by the police that in all three cases the clubs were still carrying on their operations. In accordance with the Minister's direction his deputy wrote to the Deputy Attorney General concerning this and on July 20 Mr. Eric Silk, Q.C., of that Department telephoned the Deputy Provincial Secretary and advised him that The Provincial Secretary's Department would be within its rights to advise those clubs that the charter would not be cancelled until the appeals were disposed of providing that the club did not, in the meantime, carry on their undertakings.

The Deputy Minister discussed this matter with the Minister and on July 25, 1962, the Deputy wrote to the solicitor for this club stating that unless the club ceased to operate pending the disposition of the appeal the Department would continue the cancellation proceedings.

That letter certainly confused the situation. If the corporation had failed to exercise its corporate powers prior to The Corporations Act which came into effect on April 30, 1954, and that was the contention of The Provincial Secretary as reflected in the Notice of Cancellation dated February 9, then under Section 27 of The Companies Act such non-user resulted ipso facto in the corporation's corporate powers having been thereby forfeited as a matter of law. The corporation could have applied to The Provincial Secretary for a revivor order restoring them but it had not done so.

It would have been consistent if The Provincial Secretary had said to the corporation "You have no right to exercise any corporate powers, appeal or no appeal, because you have none". But that is not what the notice dated July 25 said. In substance it said "You must not exercise your corporate powers pending the appeal". To put it otherwise The Provincial Secretary by that notice was suspending the corporation from the exercise of its corporate powers notwithstanding that he was contending that it had none.

Apart from what I have just now said concerning that letter I think it can be ignored.

The cancellation proceedings were going forward on two grounds, namely, forfeiture and the convictions. Those grounds were not stated to be in the alternative but, for the reasons I have stated, they would have to be regarded as being alternative grounds.

Whether the Minister should continue those proceedings on the first ground alone, thereby ignoring the appeals, or wait until the appeals were disposed of and if they were dismissed proceed on the two grounds alternatively was something he had to decide as an administrative matter and his decision is not reviewable by me or anyone else outside the Legislature.

Under date of August 27, 1962, Chief Mackey wrote to the Deputy Minister enclosing a police report dated August 16, 1962. This report showed that after the club had been told not to operate by the Deputy Minister on July 25th, 1962, the police had visited the premises on a number of occasions and found the club still operating.

On September 10, 1962, the Deputy Minister advised the Minister that the club had apparently disregarded the letter of July 25, 1962, and asked the Minister for direction.

When the proceedings before me ended on October 16, 1962, there was a hearing pending with respect to the cancellation of this club's charter on the ground that the club had continued to operate pending the appeals after being told by the Department to cease operations. At least that is the way the Deputy explained it in his evidence before me.

I have since been advised that the letters patent were cancelled earlier this year. I do not know on what ground.

In my respectful opinion on the hearing the first question to be considered would have to be whether the corporation's corporate powers had been forfeited by reason of non-user. If that question should be decided affirmatively then the purported exercise of those powers after forfeiture would constitute "sufficient cause" for cancellation under the Department's declared policy. The question should not be whether or not the corporation purported to exercise those powers despite the fact that the appeals were pending and because the corporation had been forbidden to do so during that period. The pending appeals had nothing to do with that question.

The history of this corporation, as I have just reviewed it, reveals the following: -

First - The letters patent could have been cancelled as early as 1927 for failure to file annual returns. Second - As early as October, 1930, the Department of The Provincial Secretary had been notified in

effect that the corporation had been abandoned and in my respectful opinion at least as of that date he should have proceeded to cancel the charter.

Third - In June, 1935, there was on file in the Department of The Provincial Secretary sworn evidence that the annual returns for the years 1924 to 1933 were false in that they showed Harry Samuels as having been a director in each of those years. Under the statute those returns had to be verified by affidavit. If Samuels' statutory declaration was true then that affidavit of verification was false but nothing appears to have been done about it.

Fourth - If those annual returns were false then the filing of them did not remedy the default in filing and the charter was still liable to cancellation by reason thereof. That point seems to have been overlooked in the wrangle between Mr. Gardhouse and Mr. Goodman.

Fifth - The Deputy Minister's report to the Minister on January 31, 1962, correctly set out the grounds on which the charter was liable to cancellation. The pending charges which the Director of Companies thought were sufficient reasons for postponing sine die the hearing that had been set for March 7, 1962, really had nothing to do with those grounds which in themselves were ample.

_____ " _____ " _____

PARTHENON SOCIAL AND RECREATION CLUB

This corporation was incorporated by letters patent dated December 5, 1946, under the name Grenville Social and Recreation Club.

By supplementary letters patent dated December 16, 1958, the corporate name was changed to Parthenon Social and Recreation Club.

Its activities have always been within the City of Toronto.

No complaint was made to The Provincial Secretary's Department concerning it until February 22, 1962, on which date the Metropolitan Toronto Police Department submitted a nine page report giving some of the history of this club since its incorporation and recommended that the charter be cancelled. As of that date the club was carrying on its activities at 264 Yonge Street and on February 3 the police had obtained evidence as a result of which one Gus Marmon, president of the club, and another, Angelo Vassos, were charged with keeping a common gaming house there.

I skip quickly through that history not with the suggestion that it reflects adversely on The Provincial Secretary's Department because it does not - the Department knew nothing about it - but to show the manoeuvring of those who from time to time controlled this and other clubs at that address, and to thereby demonstrate, if any further demonstration is necessary, the necessity for the legislation that I have earlier herein recommended.

The original incorporators were Risto Anastasis Perce, George Kourentis, George Demetrius Karry, Traico Paul Yoannu and Apostolos Dallas.

In the annual returns filed in the years 1947 to 1950 Risto Perce was the only one of the original incorporators who was shown as a director. Early in 1960 the police interviewed some of the original incorporators. George Demetrius Karry and Paul Yoannu each stated that he had allowed his name to be used as a favor to Risto Perce but had taken no interest in the club and did not know whether or not it had any club rooms.

In the annual returns filed for the years 1947 to 1957 Risto Perce was shown as president and manager. The other officers were said to have been Albert Equable and Joseph H. Corby. Early in 1960 the police also interviewed the former and he denied that he was ever an officer or director of the club. Joseph H. Corby had died about 1956 but investigation showed that he was the brother of a woman who resided at the same address as Risto Perce who had also died. The police interviewed her and she stated that she had possession of the charter following Perce's death but she declined to say any more about it because, as she put it, she wanted to keep clear of the whole matter.

In the annual returns for 1952 and 1953 Frederick Floras was shown as a director and in the annual returns for 1954 to 1957 he was shown as secretary. He was also interviewed by the police in 1960 and stated that he really had taken no interest in the club and in 1957 he decided to withdraw because he thought there might be some trouble. He stated further that in the years when he was shown by the returns as being a director the club had no premises.

On March 14, 1958, the police raided the premises at 264 Yonge Street. One, Gus Marmon, was there and stated that he was president of the club

and that it was his intention to set the place up as a night club catering to the Greek population of Toronto and that he intended to apply to have the corporate name changed. Questioned as to how he acquired the charter he replied that he got it from the widow of the man who had it - that man had been Risto Perce - and it cost him \$1700.

You will, of course, understand that a social club charter without share capital is not a commodity that can be sold or bartered, that membership therein is not transferable and that it cannot operate as a commercial organization.

The police kept the premises at 264 Yonge Street under observation and made numerous raids there. On May 6, 1959, they succeeded in getting an undercover operator into the premises and as a result on June 6, 1959, charges were laid against three men by name Chris Kapogines, Gus Marmon and Anthony Ballis for keeping a common gaming house there. Kapogines gave a signed statement to the police to the effect that he and the other two were running this club as a business. Those charges were dismissed.

The annual returns for 1959, 1960 and 1961 showed those three accused as being directors.

The police continued to keep those premises under observation and on February 22, 1962, submitted the report to which I earlier referred.

On receipt of that report the Deputy Minister referred it to a solicitor in the Department.

You will keep in mind that there had not yet been a conviction and if the charter were to be cancelled it would have to be for some other "sufficient cause".

The suggested other "sufficient causes" were forfeiture of corporate powers for non-user and evidence of illegal gaming short of a conviction. In those circumstances the solicitor suggested a hearing before any steps were taken leading toward cancellation. I am not aware of any authority in the act for that procedure. Indeed it is because of the absence of such authority that I have recommended the enactment of legislation to provide for the same.

On March 13 the Deputy Minister referred the matter to the Minister who instructed him to commence cancellation proceedings at once and on March 16 notice of intention to cancel was given to the corporation. It was put on two grounds, viz. forfeiture of corporate powers and illegal gaming on the club premises.

The solicitors for the club requested a hearing and the Department agreed to postpone any hearing until the pending charges had been disposed of.

On May 10 the accused were convicted and The Provincial Secretary's Department was so advised on May 11. A date was fixed for the hearing but the hearing was postponed when the Department was advised that the convictions had been appealed.

The Provincial Secretary had some doubt as to whether it would be proper to proceed with the cancellation proceedings pending the outcome of the appeal. He, accordingly, consulted Mr. Silk of The Attorney General's Department who advised him that it would be quite proper to do so. The club itself had not been convicted.

A new date was set for the hearing and that was the situation when the hearings before me ended.

What I am now about to say does not relate to this club in particular but it does relate to the premises at 264 Yonge Street and the manoeuvring into those premises of other clubs and the association with those other clubs of persons who controlled this particular club and who were associated with still others.

From 1943 to 1952 these premises were occupied by the Omega Club with which I shall be dealing later. Risto Perce was a director of that club from 1925 to 1946 and Gus Marmon a director in 1946 and 1947, secretary-treasurer in 1948 and president from 1949 to 1951.

When the Omega Club vacated those premises in 1952 it was succeeded by Cosmopolitan Recreation Club which remained in possession until its charter was cancelled on October 17, 1955, because of a gaming conviction.

Shortly after the charter of the Cosmopolitan Recreation Club was cancelled it came to the attention of the police that the Grenville Social and Recreation Club, as it was then known, might be moving into these premises. On January 5, 1956, they visited those premises and there they found George Ellies and a workman. Their presence was explained by Ellies who stated that he was secretary-treasurer of that club and that it would be taking over the premises. He did not know any of the other officers of the club but stated that the head office was located at 212 Queen Street East. That was the address of the Combine Restaurant which was owned by Gus Marmon. Ellies does not appear in any of the annual returns of the Grenville Social and Recreation

Club as ever having been secretary-treasurer. He may have been trying to mislead the police but when interviewed by them again in 1960 he confirmed that it had been the intention to move the Grenville Club to those premises but the plans were changed. The Miners Club took over instead later that same month and remained in possession until November, 1956. Ellies and one John Stergiopulas were convicted on September 24, 1956, of keeping a common gaming house at those premises. The Miners Club charter was eventually cancelled on December 9, 1957, as the result of a conviction at Timmins, Ontario. More will be said later herein about Ellies when I come to discuss the Tisdale Club. It will suffice for the moment to say that in 1957 he was a director of that club and also the Finnish Social Club of Timmins and that he sold the charter of the Finnish Club to McDermott and Feeley for two hundred dollars. At least that is what Feeley swore he paid for it.

Following the demise of the Miners Club the premises at 264 Yonge Street was taken over by the D'Arcy Club in January, 1957, and it remained in possession until its charter was cancelled in January, 1958, following a conviction on November 27, 1957, of officers of that club for keeping a common gaming house there.

Two months later the Grenville Club is found in possession.

From the foregoing it will be seen that for nineteen years this place was actually a den occupied in succession by one family of wolves after another each wrapped in the sheep's clothing of a social club charter.

ATLAS CLUB

This corporation was incorporated by letters patent dated March 27, 1935.

The annual returns for 1935 and 1936 were filed on June 8, 1937, and showed Max Wise as president, Norman Davidson as secretary-treasurer and Harry Hall as director. The affidavit of verification appeared to have been made by Max Wise.

The annual returns for the years 1938 to 1940 were filed on October 8, 1941, and showed Max Jessel as president and manager and Irving Silver and Allen Pearlstein as directors.

On May 31, 1943, eighteen persons were convicted of gambling on the Lord's Day at the club premises.

Under date June 3, 1943, the City of Toronto Police Department reported that conviction to The Provincial Secretary. It also reported that the club was frequented by gamblers and was a hangout for criminals. It recommended that the charter be cancelled.

On August 11, 1944, the present Deputy Minister who at that time was a solicitor in the Department recommended to the Minister that the charter be cancelled. In the evidence before me he was unable to recall what had transpired within the Department following that recommendation. In any event the charter was not cancelled.

On January 4, 1947, Benjamin Leitman and Daniel Maldaver were arrested and charged jointly with keeping a common betting house on the club premises and thirty-three others charged as found-ins. Those charges were dismissed.

On January 13, 1948, the Department received a letter enclosing the annual returns for 1942 and 1943 and stating that the whereabouts of the books and records of the club and the dates of the last annual meeting were unknown.

Under date August 25, 1954, a second report was received from the City of Toronto Police Department again recommending cancellation of the charter on the ground of suspected illegal gambling and because also of a long list of convicted persons who were frequenting the club.

On November 16, 1954, the Deputy Minister notified the club that a hearing would be held to consider the cancellation of the charter. I am unable to say whether it was in fact held or not. In any event on January 10, 1955, he informed the police that it was not deemed advisable to take any steps to cancel the charter at that time.

The club continued to be a problem to the police and following a conviction of Benjamin Leitman and Ben Steinberg on March 5, 1962, of keeping a common gaming house on the club premises they submitted a lengthy report to The Provincial Secretary dated March 16, 1962, in which they reviewed the history of this club and for the third time they strongly recommended that the charter be cancelled. That report set out the following facts:

One of the original applicants for incorporation was John J. Benjamin, sometimes known as Joseph Benjamin. He was described as an undertaker and his address given as 508-510 Spadina Avenue. Those premises either then or later were known as the

Benjamin Funeral Home. He was interviewed by the police and stated that in 1935 he was working in Chicago and was not an undertaker; that from time to time he returned to Toronto to visit his father at that address and on those occasions he visited some clubs to gamble a bit. He suggested that while on one of those visits someone interested in the incorporation of the club had obtained his name to be used as one of the incorporators.

Max Wise, who had been shown as president of the club in the annual returns for 1935 and 1936 and who in that capacity had purportedly made the affidavit verifying those returns, was also interviewed and he stated that he had never been an officer of the club and had never attended at the club premises.

Max Jessel, who, in the annual returns for the years 1938 to 1940 was shown as president and in that capacity appeared to have made the affidavit verifying them, was also interviewed. He had a remarkable lapse of memory and stated that he could not recall whether he had ever been an officer of the club or ever attended at the club premises.

The report referred to the conviction on May 31, 1943, which had been reported to The Provincial Secretary on June 3 of that year.

The report also gave an account of a suspected tie-in between this club which was operating at 287 Spadina Avenue and the operator or operators of another premises at 572 Eglinton Avenue West. Complaints had been received that bets were being taken at the club premises and relayed by telephone to the Eglinton Avenue premises. In July, 1946, simultaneous raids

had been conducted at both those addresses and as a result one Sam Shapiro had been arrested, charged and convicted of keeping a common betting house at the latter address. Those premises were equipped with three telephones with head sets and sheets were seized on which were recorded bets on horses running at various tracks in the United States. The raid on the Atlas Club did not result in sufficient evidence being obtained to lay charges.

The report further stated that the Atlas Club premises were on the second floor and consisted of two large rooms, a kitchen and two washrooms. One of those large rooms contained a pool table and the other contained several tables and chairs, a bulletin board, a desk with two telephones, a scoreboard and a ticker tape machine.

The report further stated that in the spring of 1959 one Fred Biss, 110 Tyndall Avenue, was continually on the premises in the company of Benjamin Leitman. Biss identified himself as being in charge. He also appeared in the annual return for 1959 and 1960 as secretary-treasurer of the club. This is the same Fred Biss who was in charge of the Omega Club while it operated at 382 Queen Street West and who in March of 1959 told the police that he had closed the Omega Club in the summer of 1958 to get rid of the foreign element in the membership. A ticker tape machine had been removed from those premises when the club suspended operations there on May 21, 1958. Fred Biss was well known to the police as a convicted bookmaker.

The report further pointed out that several of the officers and directors of the club as shown by the annual returns had been convicted of gambling offences. Daniel Maldaver was shown as treasurer of

the club from 1947 to 1958. Maldaver had been convicted on three occasions for recording and registering bets, once for keeping a common betting house and once for being found in a common gaming house. Sam Goldstein was shown on the annual returns for 1958 to 1961 as one time secretary, treasurer and vice-president. Goldstein had a record for recording and registering bets, gambling on the Lord's Day and keeping a common betting house.

The report further pointed out that during 1959 and 1961 the police conducted a number of raids on the premises. During these raids when police answered the telephone the person calling attempted to place a bet or requested the odds on some sporting event. Benjamin Leitman was in constant attendance and slips of paper were found on him listing baseball teams or names of horses with figures opposite those names. A Sports Sheet published by Angel-Kaplan of Chicago with the odds pencilled in was found on Leitman. On various occasions Leitman had large sums of cash on his person. On June 23, 1960, he had \$11,175; on June 25, 1960, \$3,500; on August 10, 1960, \$7,000; on September 26, 1960, \$4,568.

On each occasion that the police visited the premises those present were invariably engaged in playing cards. On one occasion one of those present stated that he had paid \$1.00 to play cards - fifty cents for card fees and fifty cents for the club "kitty". The ticker tape machine supplied sports information on baseball, hockey, football and boxing matches in the United States and Canada.

On May 16, 1961, the police raided the club and while they were on the premises one Sydney Borshay,

64 Shallam Boulevard, entered the premises and told the police that he had come to place a bet with Leitman. As a result of that raid Ben Steinberg, the secretary-treasurer, and Sam Goldstein, the vice-president, were arrested on the premises. Max Kramer, the president, and Benjamin Leitman were later arrested. On their trial it was brought out in evidence that the Montreal Police Department had conducted a raid at the residence of one Hyman Rothstein, 3455 Hutchinson Street, Apartment 202, and as a result Rothstein, Armand Goulet, 6032 Des Angevins Street and Solly "Dinky" Levine, 5726 Brookside Avenue were arrested. Rothstein and Goulet were convicted of keeping a common betting house and Levine was convicted as a found-in. Betting sheets listing bets totalling \$44,000 were seized on the raid. Rothstein requested permission of the police to make a telephone call to cancel a number of bets. Permission was granted and Rothstein dialed directly to the Atlas Club.

On March 5, 1962, the charges against Goldstein and Kramer were dismissed. Leitman was convicted of keeping a common betting house and fined \$10,000 or six months. Steinberg was convicted of keeping a common gaming house and was fined \$500 or three months.

The report concludes with a strong recommendation that the charter for the Atlas Club be cancelled.

Upon receipt of this report the Deputy Minister brought it to the attention of the Minister who directed the Deputy Minister to proceed with cancellation on the grounds set out in the police report. On March 27, 1962, the Deputy Minister instructed the Director of Companies to prepare a notice of intention to cancel for his signature. It was thus prepared,

signed and sent to the corporation under date March 28, 1962, but the only ground for cancellation set out in the notice was of the conviction of Benjamin Leitman and Benjamin Steinberg. Those convictions, however, were appealed and on April 5, 1962, the Minister directed the Deputy Minister not to proceed until the appeal was disposed of.

On April 13, 1962, the Metropolitan Toronto Police Department sent a further report to The Provincial Secretary's Department - this was the fourth one - suggesting that there were more than sufficient grounds for the cancellation of this charter regardless of the outcome of the pending appeal and suggesting further that the Deputy Minister re-check the grounds for cancellation for cause. On April 27, 1962, this report was referred by the Deputy Minister to the Director of Companies with instructions to review the report to see if there were any other grounds for cancellation apart from the conviction.

On May 1, 1962, the Director of Companies replied stating that even if there were other sufficient grounds for cancellation it would be highly prejudicial to the club and its officers if the charter were cancelled before the appeal was disposed of. He referred to the Department's experience with the New Canadian Social Club where the Department waited for the appeal which resulted in the conviction being quashed. With reference to other "sufficient grounds" for cancellation the Director of Companies stated that he had again read the police report and while the police made a number of charges, for example, that there were false statements in the annual returns, he doubted

that there would be evidence to prove that the persons knew them to be false. The Director of Companies also stated that much of the other charges related to evidence with respect to illegal gaming which is the substance of the conviction which was being appealed.

I pause to observe that the Director of Companies apparently failed to appreciate that the same degree of proof that is necessary to justify a conviction is not necessary to justify a cancellation of letters patent. That is the very reason why, for years, the policy of the Department included among "sufficient causes" strong evidence of illegal gambling even without a conviction.

On May 2, 1962, the Deputy Minister wrote to the Minister enclosing the police report dated April 13, 1962, and asking whether the grounds for cancellation should be re-checked. The Minister and Deputy Minister discussed the matter and on May 29, 1962, the Deputy Minister informed the police that the cancellation proceedings would be held up pending the disposition of the appeal. The Deputy Minister also informed them that regardless of the outcome of the appeal the original report would be reconsidered and a hearing held to determine whether there was some other cause for cancellation. The Deputy also asked the police whether the club was still operating.

Under date of June 5, 1962, the police sent a further report to The Provincial Secretary - this was the fifth one - indicating that notwithstanding the conviction of Benjamin Leitman and Benjamin Steinberg the Atlas Club was still operating.

This report shows that the police had made a number of raids on the Atlas Club premises from February, 1962, until the time of this report. Almost invariably Benjamin Steinberg, Sam Goldstein and Benjamin Leitman were on the premises with ten to twelve other persons. On February 2, 1962, Benjamin Leitman had on his person three basketball schedules published by Angel-Kaplan on which betting odds and scores had been pencilled in. Leitman was observed using the telephones on a number of occasions. Joseph Zeldin who along with Max Bluestein (Baker) and Samuel Binder had been convicted of keeping a common betting house at the Lakeview Athletic Club, 2016 Bathurst Street, on December 14, 1960, was on the Atlas Club premises on two occasions when the police raided.

The police also reported that investigation showed that Benjamin Leitman had made telephone calls to Main News, 697 Winnipeg Street, Winnipeg, Manitoba, at which address three persons had been convicted on December 6, 1961, for keeping a common betting house. Leitman also had made telephone calls to one Jerry Zarowitz, 2498 Prairie Avenue, Miami Beach, Florida. The police reported that Zarowitz is a well known gambler in Miami Beach.

On May 31, 1962, the police raided premises of John Hawthorne McKenzie at 82 Glen Davis Road which resulted in his arrest on betting house charges. While the police were on the premises Benjamin Leitman telephoned and placed two \$100 bets. The officer who received this call hung up, called Leitman at the Atlas Club, who confirmed the bet, and asked if everything was alright. Leitman then called back

and asked if "all was O.K."

The Deputy Minister upon receipt of this report discussed the matter with the Minister who directed the Deputy to obtain an opinion from The Attorney General's Department. As a result of that opinion the Deputy Minister notified the club on July 25, 1962, that if it continued to operate while the appeal was pending the Department would continue with the cancellation of the charter.

I pause again to observe that by this time the situation had become very much confused. Apart from the loss of corporate powers there is nothing in The Corporations Act rendering a corporation liable to suspension. Unless its corporate powers have been forfeited it is entitled to carry on until the charter is cancelled.

Under date of July 31, 1962, the police forwarded a further report to The Provincial Secretary. This was the fifth one. This report showed that on July 25, 1962, at 2:25 P.M. the police raided premises at 311 Connaught Avenue which resulted in one Norman Gerow being charged with keeping a common betting house and recording or registering bets at that address. Betting sheets showing an average daily figure of \$10,000 were seized. Norman Gerow, formerly of Windsor, has a record of a previous conviction for keeping a common betting house.

While the police were there Benjamin Leitman made a telephone call to those premises. At 4:25 P.M. the police raided the Atlas Club, 287 Spadina Avenue, which resulted in charges of keeping a common betting house being laid against Benjamin Leitman, Benjamin Steinberg and Samuel Goldstein. The police reported that there was a direct tie-in between the operation at 311 Connaught Avenue and the Atlas Club.

On July 27, 1962, the police raided the Atlas Club and found Samuel Goldstein in charge. He informed the police that the club was going to close up on July 30, 1962, and that the furniture had already been sold. On July 29 the police observed a number of men entering the club premises. On July 30 the police observed that the premises were closed and Ben Steinberg informed them that all the furniture had been removed.

In August the Deputy Minister discussed this club with the Minister who instructed him to hold a hearing. On August 27 the Deputy Minister requested a solicitor in the Department to review the file and set out all possible grounds for cancellation. On September 25 the Deputy Minister wrote to the club's solicitors advising that a hearing would be held to consider the cancellation of the charter on three grounds, namely: Forfeiture of corporate powers, illegal gaming activities on the premises of the corporation, and continuing to operate contrary to the Deputy Minister's letter of July 25, 1962. The hearing was to be held on October 11, 1962, but was adjourned sine die because of this Commission.

I understand that finally the letters patent were cancelled in January, 1963.

Summary: -

This club stands out among all the clubs that I have thus far reviewed in this report in that for nineteen years the police tried to put it out of existence before they finally succeeded. The fact that the charter was not cancelled sooner was certainly not their fault.

In 1944 and again in 1954 the present Deputy Minister on the basis of the information conveyed to

him by the police recommended cancellation but cancellation did not follow. I do not know why.

The arrogance and persistence of the ring-leaders at this club in pursuing their illegal activities amounted almost to defiance and could only be countered by an equally vigorous hard-hitting policy on the part of The Provincial Secretary. The history of the illegal activities of those ring-leaders amply demonstrates the necessity of the legislation that I have recommended in Chapter XII of this report. Notwithstanding my experience with a number of witnesses who gave evidence before me during the sittings of the Commission there is no doubt in my mind that persons such as those ringleaders still have a fear of being charged with perjury if they give false evidence under oath. Under that proposed legislation they can be compelled to go into the witness box and give evidence under oath and if it is false evidence they render themselves liable to be so charged.

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PORCUPINE SOCIAL CLUB
WEST END BRIDGE AND SOCIAL CLUB

For reasons that will become obvious I deal with these two clubs as a group.

First - Porcupine Social Club

This club was incorporated by letters patent in 1929 and its objects were to better social conditions in the Town of Timmins.

From time to time the club fell in arrear in filing its annual returns. In 1954 the returns for the years 1944-5-8-9 and 1950 were filed in a bunch.

On April 7, 1955, the club or its representatives advised the Department of The Provincial Secretary that the club was being revived but no inquiry seems to have been made as to the length of the period over which the club had not used its corporate powers.

In February, 1958, the club was found carrying on its activities at 15 $\frac{1}{2}$ John Street North in the City of Hamilton and three persons, by name Michael Genovese, James Agnew and John Scime, were convicted of keeping a common gaming house there. These convictions were appealed. They were dismissed on November 3, 1958.

Meanwhile members of the Hamilton Police Force were carrying on an investigation into the affairs of this club. They first interviewed the solicitor for the club in the City of Hamilton and he produced the original charter. From information obtained at that source they then interviewed the president and the secretary-treasurer of the club at Timmins and learned that the club had been inactive for a number of years and, as those persons put it, the charter had been moved to Hamilton.

All this information was conveyed to The Department of The Provincial Secretary and on September 26, 1958 (the appeal against the conviction was still pending) the Deputy Provincial Secretary notified the club that the provision in the charter which limited its objects to the betterment of social conditions in the Town of Timmins had been contravened and that unless the club closed its branch in Hamilton at once the charter would be cancelled.

The so-called branch at Hamilton was closed but notwithstanding that the letters patent were

cancelled on January 8, 1959, on the ground that the club had contravened the provision therein as to the location of its operations. It is true that by that date the appeal with respect to the convictions had been dismissed but the charter was not cancelled by reason of those convictions and was cancelled on the ground that the club had violated the term in its charter.

Second - West End Bridge and Social Club

This club was incorporated by letters patent dated February 11, 1939, and by its charter its activities were limited to the City of Toronto.

From time to time it was in arrear with respect to its annual returns and on August 7, 1957, the Deputy Provincial Secretary served notice of cancellation of the charter for failure to file returns.

Under date September 9, 1957, all the returns were brought up to date and filed and the latest of those returns showed the club to be located at 6 Tyndall Avenue in the City of Toronto.

About one month later, namely on October 10, 1957, the premises at 1284 Queen Street West were renovated and the club moved to that location. It is important to observe that on November 2, 1956, that is about eleven months earlier, members of the Metropolitan Toronto Police Department had raided the premises at 1284 Queen Street West and as a result two persons, by name Fred Gabourie and John Weaver, were charged with keeping a common gaming house there. On November 6 they were convicted of bookmaking.

The club continued to carry on some of its activities at 1284 Queen Street West up to and including April, 1960.

In July, 1958, as the result of activities of the Hamilton Police Department the club was found to be also carrying on its activities at 25½ McNab Street North in the City of Hamilton. Those premises were equipped with betting equipment including a C.N.R. ticker tape machine. Through this machine information on all sporting events as they were being played in Canada and the United States with the exception of horse racing was made available. The premises were being used as a front end for betting operations. Bets were accepted there and relayed to a back end and the information received through the ticker tape machine relayed to the bettors. The club tried to clothe certain persons as its officers in connection with this branch but they were not the officers of the corporation. One Dominic Papalia was shown as vice-president and one Joe Papalia as one of the club stewards at this so-called branch.

On August 21, 1958, members of the City of Hamilton Police Force conferred with the Deputy Provincial Secretary and conveyed to him the information that they had obtained and as a result under date September 18, 1958, the Deputy Provincial Secretary sent a written notice of cancellation of the charter to the club. The grounds of that cancellation were a violation of the condition in the charter which limited the operations of the club to the City of Toronto.

Following the service of that notice of cancellation one Sol Gebirtig, a lawyer, discussed the matter on behalf of the club with the Deputy Provincial Secretary who in turn discussed it with his Minister and the Minister decided that the notice would be revoked and the charter not cancelled provided that the club would close its Hamilton branch. To put it more pointedly the Minister was willing to overlook the violation of a term of the charter.

The club did close its operations at 25 $\frac{1}{2}$ McNab Street and removed its equipment from that address. To where did it move that equipment? To 9-A McNab Street, at which address the same type of operations were carried on as at 25 $\frac{1}{2}$ McNab Street, but under the name of the Divion Club. And who were operating the Divion Club? According to the 1959 annual returns Jack Weaver was the president of that club and substantially all the other officers of that club were members of the West End Bridge and Social Club.

On April 13, 1960, the club and one Roderick McNeill were convicted of keeping a common betting house at 1284 Queen Street West and Jack Weaver and two others, by name Alexander Robinson and Thomas McVicar, were convicted of engaging in betting there, and ten other persons convicted as found-ins.

On May 27, 1960, the charter was cancelled because of those convictions.

The history of operations at 1284 Queen Street West does not end with those convictions on April 13, 1960. On May 3, 1960, the members of the Metropolitan Toronto Police conducted another raid at those premises and who was found carrying on the operations there at that time? The Divion Club. Need I say more!

The main point that I want to make in connection with these two clubs is this: -

In the case of the Porcupine Social Club the letters patent were cancelled by reason of a violation of the term in its charter, but

In the case of the West End Bridge and Social Club the letters patent were not cancelled notwithstanding a violation of a similar term in its charter.

In his evidence before me the Deputy Provincial Secretary stated that he knew of no other case in which such a violation was waived.

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ITALIAN NIAGARA FRONTIER CLUB

This club was incorporated by letters patent dated December 6, 1949. The applicants for incorporation were as follows:

Antonio Bilotta
Frank Sherbo
Meyer Carminara
Franklin Joseph Miller
Domenico Bilotta
Ralph Nero

The premises of the club were restricted to 1760 Buchanan Street in the City of Niagara Falls.

On October 20, 1952, the Department received an application for supplementary letters patent to move the club premises from 1760 Buchanan Street to 1023 Centre Street in the City of Niagara Falls. The application was referred to the police and both the Provincial Police and the Niagara Falls Police

Department objected to the new location. The Provincial Secretary refused the application.

On February 21, 1953, the Department received an application for supplementary letters patent to change the location of the club premises to 1292 Ferry Street, Niagara Falls. The application was referred to the Provincial Police and the local police. There was no objection by the police and the Provincial Secretary issued the supplementary letters patent on March 26, 1953. Since then such operations as the club has carried on have been carried on at that address.

On April 8, 1960, the club, through its solicitor, Mr. D.G. Humphrey, applied for supplementary letters patent to change the location of the club premises from 1292 Ferry Street to 1693 Victoria Avenue, Niagara Falls. The application was referred to the Provincial Police and to the local police.

Under date of April 25, 1960, the Department received a report from Sergeant Morden of the Provincial Police together with a memorandum of Sergeant Anderson of the Anti-Gambling Branch. Sergeant Morden pointed out that he had previously submitted a report on these premises when the application for incorporation of the Cataract Hunting and Fishing Club was forwarded to the police for comment. The Provincial Secretary had refused that application. Sergeant Morden's report then pointed out that 1693 Victoria Avenue is presently occupied by Peter Sacco and was the former location of the "Polo Club", the "Gold Field Club" and the "Ramsay Club" which were all the subject of raids by the Anti-Gambling Squad and

the Niagara Falls police. In recent months the Niagara Falls Police Department had conducted several raids on those premises as Peter Sacco was suspected of operating a gaming house there. Peter Sacco had been convicted on May 1, 1952, of keeping a common gaming house at 1717 Victoria Avenue, Niagara Falls, and was fined \$2500 and costs. The report concludes with a recommendation that the application be refused.

The memorandum of Sergeant Anderson which was attached to this report referred to Peter Sacco's long association with illegal gambling in Niagara Falls. He states that "Any organization or person who would surrender their charter or permit it to be transferred to such premises is co-operating with Sacco and his illegal activities and therefore should not be in possession of the charter which they are so willing to relinquish to a convicted gaming house keeper and premises that has been a notorious gaming house. I would respectfully suggest that some action be taken to cancel the charter".

The report of the Niagara Falls Police was also opposed to the proposed premises of the club and stated that it would only be used as another gambling establishment. The application was subsequently refused by The Provincial Secretary.

In July, 1960, a further application for supplementary letters patent to change the location of the club premises to 1039 Centre Street, Niagara Falls, was received by the Department. This application was forwarded to the Provincial and local police. Under date of August 8, 1960, a report was

received by the Department from the Provincial Police which was unfavourable. The report stated that inquiries had been made as to the person who intended to lease the premises and it was learned that Antonio Bilotta, a known gambler, was the proposed tenant. In addition the premises were known to the police as a gambling centre. The report of the local police was similar and accordingly The Provincial Secretary refused that application.

In September, 1960, a further application for supplementary letters patent was made for a change in the location of the club premises to 1027 Centre Street, Niagara Falls. The evidence does not indicate that anything was done with respect to this application until December, 1960.

Some time - the record does not fix the date but it would appear to have been early in December, 1960 - the Mayor of Niagara Falls was in telephone communication with the Deputy Provincial Secretary relative to this application and on December 7, 1960, he wrote the Department stating that he had no objection to the club moving to the new address.

The Deputy then referred the application to the Niagara Falls Police Department and also to the Ontario Provincial Police.

Chief Constable Pay of the Niagara Falls Police Department wrote a brief letter to The Provincial Secretary stating that because the Mayor did not object neither did he.

I pause to observe that that was a strange attitude for the Chief to take. Perhaps it is not

so strange or more accurately not so unusual. It demonstrates an evil of which we have heard considerable in recent years, namely, political interference or meddling at the municipal level, by elected municipal officials with the police in the exercise by the latter of their police duties. In April, 1960, Chief Pay had objected to the club being permitted to move to 1693 Victoria Avenue because those premises would be used as another gambling establishment. In July, 1960, he had objected to the proposed move to 1039 Centre Street. By December, 1960, the situation as far as the police were concerned had not changed a particle. The only change was that in December the Mayor was giving the proposed change his blessing.

The application was referred to the Ontario Provincial Police and once again they opposed the move for substantially the same reasons as before, namely, that the person or persons behind the charter were known gamblers. Referring to the letter from Mayor Miller Sergeant Anderson of the Ontario Provincial Police reported that Chief Pay had informed him that the Mayor had approached him about this club and all the opposition to it and said he was going to do something about it because one of the persons behind it was politically active in the area. I am not prepared to find on that hearsay evidence that what Chief Pay said to Anderson was true. Chief Pay gave evidence before me on another matter but at that time the evidence that I am now reviewing had not yet been given. I only refer to it for the purpose of pointing out that what Sergeant Anderson said was the fact had been placed before The Provincial Secretary, and you will

be interested in knowing whether or not, in my view of the evidence, it in any way affected the decision of The Provincial Secretary. I hasten to say that in my view it did not. That political interference stopped at the municipal level. This is made abundantly clear by subsequent events.

On February 1, 1961, the Director of Companies gave a written memorandum to The Provincial Secretary concerning the matter. It is in part as follows: -

"This location (i.e. 1027 Centre Street) apparently has the approval of the Mayor of Niagara Falls and the Chief of Police. I think it is fair to say the Chief of Police has now agreed in view of the fact that the Mayor is favourable to the change. The Ontario Provincial Police, however, feel just as strongly about the new place as the old. Their objections are apparently that the persons behind this charter are known gamblers, so presumably the Provincial Police would object to the new location".

" In view of the fact that the Mayor has approved of the new location, I would enquire as to whether the Department should now agree to the proposed change".

On March 17, 1961, the Director of Companies sent another memorandum to The Provincial Secretary.

Nothing further was done about the application until May, 1961, the reason being, apparently, that the Deputy Provincial Secretary was absent on account of illness. He returned to his duties in May and discussed this club with his Minister. On May 29, 1961, on instructions from his Minister the Deputy wrote the Ontario Provincial Police for a report on the premises the club was presently occupying and the conditions from a policing point of view of the premises at 1027 Centre Street.

As to the premises that the club was then occupying Sergeant Anderson of the Ontario Provincial Police reported that it was not occupying 1292 Ferry

Street to which its operations were restricted, nor had it occupied those premises during the previous five years. It had vacated those premises when its lease expired. It was allegedly operating at 1025 Centre Street.

The premises at 1025 Centre Street was a four room apartment over a store which was rented to one William Chiampi. It was equipped with, among other paraphernalia, a long narrow table covered with green-beige cloth and having removable sides which, according to Sergeant Anderson, is expressly so designed as a table for shooting "craps". The premises were so laid out that the police could be hindered in gaining access thereto.

William Chiampi had been convicted in January, 1948, of keeping a common bawdy house and sentenced to three months.

On the premises was found a City of Niagara Falls Utilities Commission Hydro bill addressed to R. Mascati who also has a criminal record.

The premises at 1027 Centre Street was a vacant store.

The application for supplementary letters patent was refused.

No proceedings to cancel the charter on the ground that it operated at 1025 Centre Street have been taken for the obvious reason that the police have been unable to get sufficient evidence that it in fact did so.

Without bothering you with the details of other evidence it will suffice if I simply say that the present situation is that Antonio Bilotta is, so to speak, going around with this charter in his inside

pocket looking for a place where he can put it to an unauthorized use. He seems to think that this piece of paper is all he needs to set himself up in business. He has made that perfectly clear to Sergeant Anderson who interviewed him.

On the evidence before me it seems clear that this corporation is no more a social club than is the corporation that runs the parking lot around the corner. It is described as such in its charter but in essence it is a one man club. If the legislation that I have recommended is enacted then the police and The Provincial Secretary will be no longer stymied. An inquiry can be conducted by The Provincial Secretary and I would expect the end result to be the cancellation of the charter.

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BELLEVUE BRIDGE AND SOCIAL CLUB

This corporation was incorporated by letters patent dated October 22, 1938.

Under date of October 16, 1959, W.C.Bowman, Q.C., Director of Public Prosecutions, wrote a memorandum to the Deputy Provincial Secretary. Attached to that memorandum was a letter dated September 25, 1959, from the Chief of the Metropolitan Toronto Police and a police report enclosed therewith dated June 22, 1959. The letter from the Chief stated that in July, 1959, he had submitted a report to Mr. E. Pepper of The Attorney General's Department concerning this club and in a conversation with him had suggested that there was sufficient evidence to cancel the charter held by

the club. He also stated in his letter to Mr. Bowman that information had been brought to his attention recently that Americans from large organizations in the United States have moved into Toronto and that they were going to take over the so-called chartered clubs.

In his memorandum of October 16, 1959, to the Deputy Provincial Secretary Mr. Bowman states that he agrees with Chief Mackey that there can be little doubt that this club operates as a betting house and it would be desirable to extinguish it if possible.

The police report dated June 22, 1959, shows that as a result of complaints regarding illegal gambling activities the police had conducted an investigation in 1947 at 2 Brunswick Avenue, Toronto. The Bellevue Bridge and Social Club was found to be operating at this address. On December 2, 1947, gaming house charges were laid by the police in connection with these premises but the charges were subsequently dismissed.

The police continued to receive complaints and information concerning illegal bookmaking and gaming activities but they were unable to obtain sufficient evidence to warrant charges being laid.

In 1958 the club changed the location of its premises to 431 Spadina Avenue. Police investigation revealed that this club was occupying the ground floor of a three storey building located there. The club rooms were equipped with four telephones; a Canadian National Sports Ticker Tape machine which gave the results of sporting events. Playing cards and poker chips could be obtained from the club steward. The club paid \$325 per month rent for the building. The third floor was sub-let to certain club members as

living quarters. On November 2, 1958, Louis Bowmile and Joseph Prosser, the occupants of the third floor, were arrested and subsequently convicted of keeping liquor for sale. Both Bowmile and Prosser were members of the Bellevue Bridge and Social Club. Twenty-two other persons were convicted as found-ins including one Leo Wuls. Leo Wuls is shown on the files of The Provincial Secretary's office as president of the club at the time of this conviction. The magistrate also declared the third floor premises to be a Public Place within the meaning of the Liquor Control Act for a period of one year.

On March 3, 1959, one Wilfred Knight, an occupant of the third floor premises, was charged and subsequently convicted of having liquor in a premises declared to be a Public Place. Five other persons were convicted as found-ins. Wilfred Knight was also a member of the Bellevue Club.

The club records were examined by the police and it was found that several of the guests and members had criminal records. Convictions registered included bookmaking, false pretences, assault, theft, shop-breaking, forgery, procuring, armed robbery, receiving, rape and illegal possession of narcotics.

During a number of raids conducted on the premises between February and April of 1959 police officers answered the telephone and persons requested odds on sporting events or attempted to place bets. On one occasion Leo Wuls was on the premises along with six others. Wuls was asked about notations found on the top of an arborite table but would not give any information. A check of a newspaper found in the club revealed similar names listed as race horses scheduled

to run that day. Investigation revealed that long distance telephone calls had been made to the Divion Club in Hamilton which was under investigation by the Hamilton Police for suspected illegal gambling.

The report referred to the fact that on May 15, 1959, the club had applied for an injunction restraining the police from trespassing on the club's premises. The club was also seeking an injunction restraining the Canadian National Telegraph from cancelling the sports ticker tape service installed on the club premises.

The report concludes with a recommendation that representations be made to The Provincial Secretary's Department to have the letters patent cancelled.

Earlier it was stated that this report was received by the Deputy Minister around October 16, 1959. The Deputy apparently referred this matter to one of the solicitors in the Department. His reply is undated but it states that there is ample evidence to justify the cancellation of the charter. The solicitor suggested that the Department should not proceed until the injunction proceedings had been finalized.

On December 10, 1959, the Minister sent a memorandum to his Deputy stating that Allan Grossman, M.P.P., considered the club nothing more than a place for bookmaking, gambling, etcetera, and that Grossman had complained to the police about it and Grossman felt that The Provincial Secretary would be doing British justice to cancel the charter. The memorandum concludes, - "Our policy is that we do not cancel a charter unless we have a conviction. I feel in this case that there is enough evidence in favour of cancellation that we can waiver our present policy".

On December 10, 1959, the Deputy Minister wrote to the club informing it of the evidence which had been brought to his attention and that the activities being carried on at the club premises constituted the offence of keeping a common gaming house. He notified the club that the letters patent of the club would be cancelled for cause.

Under date of December 21, 1959, the solicitor for the club wrote a six page letter to the Deputy stating that the club had commenced a civil action against certain police officers and that the cancellation proceedings should be stayed until the civil action was disposed of.

Under date of May 15, 1961, the Metropolitan Toronto Police wrote to the Deputy Minister informing him that in the spring of 1961 one Abe Robinson and Hub O'Gara had been convicted of recording and registering bets and it was thought that Robinson and O'Gara were operating the "back end" for the Bellevue Club.

Following those convictions charges of conspiring to carry on bookmaking and gambling offences were laid against Frederick Gabourie, Jack Weaver, Harry Eisen, Arthur Larter, Abe Robinson, Percy Goldenberg, Max Silver, Ben Kaflowitz, Hugh O'Gara and Timothy Buckley. These charges were laid on April 24, 1961.

The club closed its doors on April 26, 1961, and has remained closed since that time.

The charter of this club is still outstanding. The Provincial Secretary is awaiting the outcome of the conspiracy charges before deciding what should be done about it. If I may say so that is a reasonable position to take. The club has ceased operations and in the

meantime is not doing any harm. If, pending the disposition of those charges, it should raise its head again The Provincial Secretary can take such proceedings as he considers advisable.

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THE OMEGA CLUB

This club was incorporated by letters patent dated February 27, 1925.

According to the files in The Provincial Secretary's office this club had not filed annual returns from the date of incorporation to 1941.

Furthermore in a letter dated August 26, 1930, the Comptroller of Revenue advised The Provincial Secretary's Department that the police had closed the club some time prior to that and it had not operated since.

On October 14, 1941, all the annual returns for the years since incorporation were filed in a bunch with the exception of the return for 1932 which apparently has never been filed.

Under date of August 20, 1954, the City of Toronto Police Department forwarded to The Provincial Secretary's office a report on the activities of this club and recommended that the letters patent be cancelled. Cancellation proceedings were commenced and a hearing was held by the Department on December 6, 1954. On January 10th, 1955, the Deputy notified the police that after careful consideration of the evidence it was not deemed advisable to take any further steps to cancel the letters patent at that time.

Under date April 26, 1960, Chief Mackey of the

Metropolitan Toronto Police Department wrote to the Deputy enclosing a police report dated April 21, 1960. He concurred with the recommendations in that report that the letters patent be cancelled.

This report stated that this club had occupied premises at 264 Yonge Street from 1943 to 1952. During that period the police had received complaints regarding illegal gambling activities at that address.

It also stated that on January 4, 1947, Sol Debin, 231 Vaughan Road, Joe Gianieri, 18 Cameron Street and Fred Biss, 110 Tyndall Avenue, had been charged jointly with keeping a common betting house on those premises but these charges were dismissed. The report stated that although none of the accused men appeared on the annual returns as officers or directors of the corporation investigations prior to the charge being laid disclosed that on most occasions the accused men answered the telephones and conducted the club business.

The police continued to investigate the operations of the club at that address until 1952 when it moved to 382 Queen Street West. The police continued in their investigations at that address until it ceased to operate there in 1959. Throughout this period they were unable to obtain sufficient evidence to obtain a conviction.

One Donald Prince, 77 Pembroke Street, was shown on the annual returns for the Omega Club as vice-president in 1948, manager in 1949, secretary-treasurer 1950 to 1953 and director in 1954. In February, 1956, he was convicted of engaging in bookmaking at 264 Yonge Street and in April, 1955, he was convicted of keeping a common gaming house at that same address. In that year those premises were occupied by the Cosmopolitan Recreation Club as the successor in occupation of The

Omega Club. Donald Prince resigned from his directorship in The Omega Club in 1955.

In April, 1960, Donald Prince was interviewed by the police and he stated that The Omega Club had ceased operation for a short time when it vacated 264 Yonge Street in 1952 and Prince lost his job. When, later, it resumed operations at 382 Queen Street West Prince approached Fred Biss, 110 Tyndall Avenue, and asked him for a job. Prince was hired by Biss as club steward and was later appointed secretary-treasurer. He told the police that he had gone to the office of the lawyer for the club to swear the affidavit verifying the returns for The Omega Club. The police found this to be the case for the 1953 annual return. Prince was also shown some membership cards found on the premises of the Cosmopolitan Recreation Club in 1955 on which his signature appeared as secretary-treasurer. He admitted signing the cards but denied that he was on the executive of that club.

During periodic visits to the club premises at 382 Queen Street West Biss appeared to be in charge and the police concluded that he was the "owner of the club". That would be confirmed by Prince's story and also by the fact that on September 29, 1954, Carl Joseph LaMareo, 11295 Biscayne Road, Miami, Florida, was on the club premises and he told the police that he was in charge of the premises and was looking after the club for Biss.

On January 5, 1957, William Pashka, 150 Albany Avenue, identified himself to the police as being in charge of the premises. He stated that he was not an elected officer and that there were none present. He stated that the club belonged to Fred Biss. However,

the annual returns for 1957 show him as vice-president.

Between September, 1953, and February, 1956, police investigated the club premises 126 times.

On 81 occasions Fred Biss was on the premises.

In the summer of 1958 The Omega Club vacated the premises at 382 Queen Street West and subsequent police investigation revealed that a sports ticker tape machine had been removed by the Canadian National Telegraph from those premises on May 21st of that year. Following the closing of The Omega Club in 1958, - it re-opened in September, 1960, - Biss was observed by the police while they were conducting investigations at 287 Spadina Avenue, the premises of the Atlas Club in the spring of 1959, and he is shown in the annual returns of that club as an officer in 1959 and 1960. Biss's record shows convictions for theft, keeping a common betting house, keeping a common gaming house and found in a common gaming house.

Investigation by the police of the telephone calls from the telephones listed to The Omega Club disclosed a charge of \$742.20 for a period of three months. Police officers were informed that in April, 1956, the Bell Telephone Company of Canada had been requested by a Commission investigating crime and gambling in the State of Massachusetts to supply the listings of six telephone numbers which that Commission had uncovered. One of the numbers was listed to The Omega Club and three were listed to the Acme Card And Social Club of Toronto. (I will be dealing with long distance telephone calls from various clubs in Ontario later herein).

The police concluded the report of April, 1960, by stating that although The Omega Club is inactive it

was felt that if it was not cancelled it would be reactivated to replace some other charter which might be cancelled.

The evidence does not indicate what transpired within the Department of The Provincial Secretary on the receipt of the report. In any event the report did not result in the cancellation of the letters patent.

On September 2, 1960, investigations by the police revealed that The Omega Club had again resumed operations at 382 Queen Street West. It continued to operate there until February of 1961. During that period the police continued to investigate it. With a letter dated May 8, 1961, by which time it had ceased operations, Chief Mackey forwarded a further report relating to it. In that letter he stated that in view of the content of the report and the fact that the premises were then closed he strongly recommended that the letters patent be cancelled. He commented:

"This type of club is a breeding place for all types of crime, and I would ask for your utmost co-operation in ridding the area of this menace".

The report refers at length to a raid conducted on the club premises on September 22, 1960, as a result of a complaint of illegal gambling activities. On entering the club premises officers found a dice game in progress on a billiard table. During the investigations the persons found on the premises became hostile and made threats to the police officers conducting the investigation. One Joseph Irwin came to the club during the investigation, was told he could not enter but managed to slip into the club premises. He then attempted to leave and was told that he would have to wait until the investigation was completed. Irwin then rushed to

the door and struck one of the police officers knocking him to the floor. A fight then broke out between the other persons on the premises and the police.

Joseph Irwin was convicted of assaulting a police officer. Three persons were charged with keeping a common gaming house and sixteen were charged as found-in. The charge against the keepers was dismissed and the charge against those found-ins was withdrawn.

While these charges were pending the club premises were raided on November 21, 1960, and officers found Joseph Welk, 139 Portland Street, in charge of the club as the club steward. Several men were found gambling at cards. Joseph Welk was collecting a fee for the use of these cards. He was charged with keeping a common gaming house but on February 14, 1961, the charge was dismissed.

The police drew attention to the fact that the officers of this club were listed as David McGoran, David Gilbert, alias Greenberg, and Aaron Monka. On the raid of September 22, 1960, none of these officers were present. Terrance Wray, 49 Bellevue Avenue, and George Bartello, 330 Hopewell Avenue, were in charge as club stewards.

The police record of David Gilbert (alias Greenberg) shows convictions for shopbreaking and theft, breaking, entering and theft, keeping a common gaming house (2), found in common gaming house (4), and receiving.

Terrance Wray, one of the club stewards, has a record of convictions of theft (2), breach of Opium and Narcotic Drug Act, illegal possession of drugs (2).

George Bartello, alias Spiel, the other club steward, has a record of convictions of receiving, breaking and entering and theft (2), shopbreaking and theft, obstructing a police officer, breaches of the Liquor Control Act (8), and others.

Police records of frequenters on the club premises show convictions for theft, assault causing bodily harm, illegal possession of drugs, and placing explosive material with intent to do bodily harm.

On receipt of this report the matter was referred to a solicitor in the Department who on May 23, 1961, reported to the Deputy Provincial Secretary that it was questionable whether there was sufficient evidence of gambling to warrant cancellation but he suggested that there might be grounds for cancellation by reason of forfeiture because of failure to exercise corporate powers in the period 1925 to 1941.

The Deputy then wrote to Chief Mackey asking for an investigation relevant to that suggested cause.

On July 6, 1961, the club was notified by the Department that in view of the free-for-all which took place during the police investigation on September 22, 1960, and the conviction of Joseph Irwin for assaulting a police constable, The Provincial Secretary was going to cancel the letters patent unless cause was shown to the contrary.

The charter was cancelled as of July 21, 1961, on that ground. It must have been on the theory that the corporation was in some way responsible for what occurred on that occasion.

The charter could have been cancelled as early as 1930 for forfeiture of corporate powers and in my opinion it should have been.

SOMERSET CLUB

This club was incorporated by letters patent dated January 22, 1936. By its letters patent the activities of the club were limited to the County of York.

It operated originally at 57 Queen Street West. In 1950 it moved to 431 Spadina Avenue and in 1958 to 4140 Bathurst Street.

On May 24, 1960, the club applied for the consent of The Provincial Secretary to move its premises from 4140 Bathurst Street to 805 Wilson Avenue. The application was referred to the Ontario Provincial Police and the Metropolitan Toronto Police.

The Provincial Police under date of June 30, 1960, reported unfavourably, and pointed out that the new premises were laid out similar to a gaming house. The report also stated that the club was under investigation by the Metropolitan Toronto Police.

The Metropolitan Toronto Police reported to The Provincial Secretary on July 18, 1960. As to the proposed move they reported that they had investigated the proposed premises at 805 Wilson Avenue. Those premises were located on the third floor of a new building. The report stated that the windows on the third floor provided a good view of the approaches and the two entrances to the building. The police felt that the fact that the club would be located on the third floor would seriously impede police investigations because of the distance which would have to be traversed and the possibility that look-outs could be stationed at the top of the stairs to warn frequenters of the approach of the police.

In addition to reporting unfavourably on the proposed new location they also strongly recommended that the charter be cancelled.

They pointed out that while the club was operating at 431 Spadina Avenue they had received numerous complaints of illegal gambling and betting activities at that address and that from the time the club moved to 4140 Bathurst Street it continued to cause considerable concern to the Morality Bureau. Complaints, usually anonymous, had been received from time to time regarding persons frequenting the club losing large sums of money. During the eighteen months preceding the report the police had executed many orders for search but had been unable to obtain sufficient evidence to lay charges. From their observations on raids conducted during the first three weeks of June, 1960, the police concluded that the club premises were a hangout for professional gamblers and their associates. The records of persons found on the club premises at this time showed convictions for keeping a common gaming house, keeping a common betting house, engaging in bookmaking, recording and registering bets, found in common gaming house, found in common betting house, attempted fraud, illegal possession of drugs, breach of the Liquor Control Act, theft of automobile, common assault, aggravated assault, assault and robbery and assault causing bodily harm.

On June 8, 1960, while approaching the club premises with an order for search, the officers overheard conversations taking place inside the club in which betting odds were being discussed, a request made for payment for cards, and the results of a horse race mentioned.

As a result of the complaints received the police had investigated the background of this club. Their investigation revealed that the petitioners for the incorporation of this club were William J. O'Malley, 123 Raglan Avenue, Publisher, Charles Atkinson, 867 Palmerston Avenue, Barber, and Thomas Ince Anderson, 78 Homewood Avenue, Insurance Salesman.

Thomas Ince Anderson was interviewed by the police and he stated that in 1936 a lawyer had asked him to permit his name to be used as an applicant for the incorporation of the Somerset Club. Anderson stated that he had attended the club premises on Queen Street West near Bay Street twice and on both occasions gambling was being conducted so he never went back.

One Harry Caesar was shown on the annual returns filed with The Provincial Secretary's office as manager of the Somerset Club in 1938, a director in 1939 and 1940, secretary in 1941 and president from 1942 to 1950 inclusive. His address was shown as 152 Beatrice Street. One Harry Caesar of 260 Searle Avenue who formerly resided at 136 Beatrice Street was interviewed by the police and said that no other Caesar families lived at 152 Beatrice in 1938 or any other time to his knowledge. He denied ever being a member of the Somerset Club or permitting his name to be used in any connection with the club.

Bernard Roman, 176 Lauder Avenue, who was shown in the annual returns as a director in 1937 and as president from 1938 until 1940 when interviewed by the police stated that before the war in 1939 someone had asked him to permit his name to be used as an officer of a social club. He thinks that he was paid for this

service. He denied ever attending any meetings of the club or acting in the capacity of an officer.

Henry Wortzman, 27 Menin Road, York Township, was shown on the annual returns as secretary and/or secretary-treasurer of the Somerset Club from 1941 to 1950 inclusive. When interviewed by the police he stated that from 1936 to 1940 he was employed as a steward of the club. He looked after the club, answered the telephone and collected for the cards. He was paid by Harry Pezion who ran the club. Pezion asked him to permit his name to be used as an officer of the club. He never attended any meetings nor acted as secretary or secretary-treasurer of the club. Wortzman stated that around 1940 Harry Pezion sold the charter and since that time Wortzman had no connection with it. He stated that if his name was used after 1940 it was without his permission and authority.

The police were unable to locate Charles Atkinson, an original petitioner, and the remaining petitioner, William J. O'Malley, was deceased.

The police in their report to The Provincial Secretary questioned the bona fides of this club and concluded that from the statements obtained the annual returns in some instances were false.

The annual returns for the years 1955 to 1958, during which years the club was located at 431 Spadina Avenue, showed Harry Eisen of 411 Eglinton Avenue West as secretary-treasurer. The police reported Harry Eisen as having a criminal record for fraud. When the club moved to its Bathurst Street address the Bellevue Card and Social Club took over the vacated premises at 431 Spadina Avenue. Harry Eisen then became secretary-treasurer of the Bellevue Card and Social Club. One Saul Borenstein,

139 Hove Street, became steward of the Somerset Club and he was also steward of the Ringside Club. The police pointed out that both the Ringside Club and the Bellevue Card and Social Club were currently under investigation for illegal gaming activities.

When this police report dated July 18, 1960, was received by The Provincial Secretary's Department the Deputy referred the matter to one of the solicitors in the Department who reported back to the Deputy on July 25, 1960, with the following memorandum:

"I have examined the attached file and the report of the Metropolitan Toronto Police.

While the police are strongly opposed to the granting of permission by this Department for the removal of the club from its present premises at 4140 Bathurst Street to 805 Wilson Avenue the following comments are considered pertinent:

1. There is no evidence in this report that the powers of the corporation were forfeited under Section 27 of The Companies Act.
2. While many orders for search have been executed against the club over the past eighteen months, no evidence has been obtained considered sufficient to charge the club and its members before the courts.
3. Inspections of the premises at 805 Wilson Avenue have been made by the Building Commissioner, the Planning Director, the Fire Chief and the Medical Officer of Health of North York Township and none of these opposed the proposed move of the club to the new premises".

On July 26, 1960, the Deputy wrote to Chief Mackey informing him that The Provincial Secretary had refused the application to change the location of the club premises. He also advised Chief Mackey that the Department was considering the cancellation of the charter and to this end had required the club to produce its books for inspection.

There is nothing further on the Department's file indicating what transpired until February 8, 1961, when the Director of Companies reported to the Minister. That memorandum read as follows:

"The City Police requested that the charter be cancelled.
A copy of the City Police report dated July 18 is attached. In the report it is indicated that many orders for search were executed on the premises, but apparently there was not sufficient evidence to justify a charge. The City Police based their request for cancellation on the grounds that the premises are apparently frequented by professional gamblers.

Subsequent to the police report this Department obtained production of all the corporate records. These were produced and they related to matters commencing in January 1951.

I have examined the records and there is nothing from those produced that would give the Department a basis for cancelling the charter on the basis that there had been a forfeiture of the corporate powers prior to 1954 when the new Act came into force.

In view of these circumstances I would request your advice as to what action, if any, should be taken by the Department in this case".

Following that report discussions took place between the Minister and the Director of Companies; the Deputy Minister was absent on account of illness. As a result of those discussions and after reviewing the report the Minister concluded that if notice of intention to cancel were given and a hearing was requested the evidence would not be sufficiently strong to justify him making an order for cancellation.

The Minister then telephoned Chief Mackey and discussed their mutual problem as far as this particular club was concerned and also the general problems which confronted both of them with respect to clubs generally. The Minister informed Chief Mackey of his decision and suggested that the officers continue to investigate the club at the premises to which it was restricted.

In July, 1962, Chief Constable Mackey sent to The Provincial Secretary a very complete report given to him by Inspector H.S. Thurston of the Morality Division of the Metropolitan Toronto Police Department dated July 11, 1962. Instead of rehashing what is there so well said I am including that report in full as Exhibit 6 in the appendix hereto. It shows very vividly the problems which the police have had with not only this club but also others like it and how insidious and wide spread have been the illegal activities of those persons associated with those clubs.

As I write this report I keep thinking of what a boon it would have been if The Provincial Secretary had available to him the legal machinery for inquiry and investigation which appropriate legislation would have authorized and which earlier herein I have recommended.

I have been advised that since the hearings before me ended the charter of this corporation has at last been cancelled and for that I say, without being sacrilegious, Deo Gratias.

_____ " _____ " _____

TISDALE CLUB

The charter of this club has not been cancelled. At this stage of this report it will suffice to say that it opened a branch at 339½ George Street North in the City of Peterborough; that certain persons were convicted on January 16, 1957, of keeping a common gaming house at that address but, on the condition that the branch would be closed, The Provincial Secretary decided he would not cancel the charter. It was closed and the charter was not cancelled.

I deal with the operations at that
so-called branch at p.275 of this report.

_____ " _____ " _____

S U M M A R Y

It is almost impossible to summarize all the evidence relating to the foregoing clubs as I have reviewed it in dealing with each of them, but from all that evidence these facts emerge.

I There was evidence of trafficking in seven of them. By that I mean the charter was either sold or was up for sale. The charters thus sold or offered for sale had all been issued prior to January 1, 1950.

II Under The Companies Act the letters patent incorporating them were subject to cancellation by the Lieutenant Governor in Council when the Annual Returns were in arrears for one year. If after that lapse and reasonable notice the returns continued to be in arrears cancellation proceedings should have been commenced. Instead, they were allowed to accumulate and then were filed all at once. That fact should have aroused some inquiry within the department but did not.

III In a number of cases the department had been notified that the charters had been virtually abandoned but did nothing about it. Indeed, the Returns Officer kept pressing to have the annual returns filed.

IV Failure in filing returns and/or specific notice of abandonment indicated forfeiture of corporate powers for non user but non user was not made a ground of cancellation until 1960.

V In some instances there was strong evidence of illegal gambling on club premises but the department did not avail itself of that fact as a basis of cancellation until 1960.

VI In some instances the department was put on notice that there had been false returns made but did nothing about it.

VII There were instances in which many clubs in succession to one another occupied the same premises. Of course, the Provincial Secretary would not know of this unless and until it was brought to his attention by the police.

VIII Where eventually there were convictions and notice thereof was given by the police to the Provincial Secretary he acted with reasonable despatch in commencing cancellation proceedings.

In January, 1960, the Deputy Minister had a meeting with Chief Mackey, who expressed concern in respect to control of old clubs being acquired by gambling interests and such clubs moving from one place in the Province to another.

The Deputy Minister in his evidence before me said that in the odd instance information had previously come to his attention concerning the moving about of old clubs in the period between 1950 and 1960 but neither he nor the Department were aware of the seriousness of the problem until this meeting took place. Mr. Cudney immediately asked Chief Mackey for reports on all clubs operating in the Metropolitan Toronto area which were suspected of gambling.

Following this meeting as I have reported earlier The Corporations Act was amended to require the prior consent of the Provincial Secretary before any social club could move its premises. In addition, there were changes made in Departmental procedures. Prior to January, 1960, when the returns for a number of years were filed all at once under the system in operation in the Department, that fact would come to the knowledge of the Returns Officer only and would not reach either the Deputy or the Minister. In January, 1960, the Deputy Minister directed that the Returns Officer report to him any case in which there had been such filing together with a change in the officers of the club.

Following that change in policy there were five charters cancelled in 1960-1961 for non user as disclosed by an examination of earlier returns.

Between the years 1950 and 1959 there were only eighteen cancellations. In 1960 there were nineteen and in 1961 there were thirteen cancellations.

Of the thirty-four clubs which I have just dealt with twenty-eight had been incorporated before January 1, 1950 and six thereafter.

As of November 29, 1961, the date of the speech, the Provincial Secretary's Department had either processed or was in the course of processing cancellation proceedings with respect to all clubs concerning which the police had complained.

The Honourable Mr. Yaremko became Provincial Secretary on May 26, 1960, and in fairness to him I should say that accordingly he was not responsible for the administration of the Department prior to that date.

P A R T S I X

CHAPTER XVI

HEARSAY EVIDENCE

Before dealing with the matters referred to me in the second term of reference I think I should first deal with this subject for two reasons: First, to put straight and remove some apparent misunderstandings as to the place it occupies and its purpose in an investigation such as this; and second, - this may be included in the first, - to make abundantly plain the limited use to which it may be put.

The transcript of the evidence given before me and which I will be delivering to you with this report includes at a number of places what is known as hearsay evidence. By hearsay evidence I mean, by way of example, a statement made to A by B who in turn heard it from C that such and such had occurred on some given occasion that reflected adversely on X. In a court of law that type of evidence is rigorously excluded and when at some stages it crept into the evidence given before me there was some concern expressed as to its admissibility and understandable exasperation by the person who unfortunately at the particular time or times found himself in the position of Mr. X in the above illustration. Because of that, I explained, and it may be serviceable if I do so again, that the rule with respect to hearsay evidence that applies in a court of law is not equally applicable to an inquiry under The Public Inquiries Act. That does not mean that on such an inquiry hearsay evidence should be permitted to run rampant. There must be some restraint put upon it. Hearsay gives rise to rumours. A tells

something to B and B repeats it to C and C to D, and so on, almost ad infinitum. It may be true or it may be false and even though false there comes a time when it gains popular acceptance as fact and innocent persons whose characters are beyond reproach are unjustly accused and branded. Not infrequently those persons are men or women in public office and those associated with them in the discharge of public business. As I said publicly during the course of the hearings, among the circumstances that led to the creation of this Commission were rumours with respect to the enforcement of law in this Province and one of its purposes was to bring those rumours out into the light and not leave them lurking in the shadows, to track them, if possible, to their source and determine whether there was any truth or substance to them, or whether they were just common gossip and idle tittle-tattle or vicious and wicked propaganda. In pursuing such rumours unavoidably the hearsay that gave rise to them creeps into the record and the person or persons involved in the rumour, if innocent, are subjected to additional embarrassment and distress. The purpose of the pursuit is to search out the truth, to dispel the rumours if they should be dispelled, and not to smear. This is not "McCarthyism".

Earlier herein I said that, though the rule with respect to hearsay evidence does not apply to an inquiry under The Public Inquiries Act, there nevertheless must be some restraint on it. The extent of that restraint must be measured by the purpose of such evidence. As one editorial writer put it its purpose must be to "spread enlightenment,

not destruction". If it is sought to be introduced for that latter purpose only it should be rigorously excluded. No lawyer with any sense of decency and ethical standards would attempt to introduce it for that purpose. That would be "McCarthyism". Its admissibility for justifiable purposes places a terrific responsibility upon the Commissioner. He has, as it were, to perceive ahead of time what purpose is intended to be served by those who proffer it. He would have to be almost superhuman to always accurately make that discernment. I cannot surely have been the first Commissioner who found himself in that difficult position in a proceeding under this or similar Acts in Canada but I was unable to find any report of such a proceeding in this country in which this particular subject was discussed.

Since the hearings by me ended I have found that this subject has been discussed and considered in England under very similar legislation there, viz. the Tribunal of Inquiry (Evidence) Act, 1921. That Act provides for the setting up of Tribunals of Inquiry to inquire into and report upon matters of urgent public importance and to that end contains provisions almost identical to those contained in The Public Inquiries Act. A number of inquiries under that Act have been collected in a very useful work published in 1960 and entitled Trial by Tribunal (the title may be slightly misleading) by Mr. George W. Keeton, a Professor of English Law in the University of London and Head of the Department of Laws at University College, London. The author points out that since that Act was passed fourteen

tribunals have been set up under it. Some investigated the conduct of the police, another examined the conduct of members of a Government Department, another inquired into an alleged "leak" of Budget secrets, one traced to its sources the exercise of pressure upon members of the Government in order to obtain licenses, and still another investigated rumours of a "leak" of information relating to a substantial increase of the Bank Rate. I point out how closely related in nature to more than one of those inquiries is the nature of part of the inquiry which you required me to make under our Statute.

Neither the English Act nor our statute lays down the procedure to be followed by those charged with the responsibility of conducting the inquiry. Accordingly, just as I had to do, so, too, the members of the Tribunals functioning under the English Act had to decide the procedure to be followed. What that procedure should be would depend, in part, on the subject matter of the investigation and the circumstances that led to the establishment in England of the Tribunal and in Ontario of this Commission. In England where those circumstances included rumours of malfeasance or nonfeasance in the administration of public affairs those rumours were pursued by the Tribunal notwithstanding that such pursuit involved the admission of hearsay evidence. In that connection the concluding speech of The Attorney General before the Tribunal investigating the alleged Bank Rate "leak" in 1957, and of which Lord Justice Parker was Chairman, is enlightening. He said in part:

" I am not here either as a prosecutor or to defend anyone. It has been our object to press and to probe by cross-examination in order - and this has been our only object - to establish the truth".

" We have dealt with all the rumours that were apparently current in the City of London. We have sought to find out what basis there was for them. We have considered all the reports in the Press, and sought to find out what was the basis for them. I would submit that there had been a complete and thorough investigation not only of these matters but of all other information which has any relevance to the terms of reference in this Tribunal".

In 1948 a Tribunal was established the members of which were Mr. Justice Lynskey, Mr. Godfrey Russell Vick, K.C. (later a County Court Judge) and Mr. Gerald Ritchie Upjohn (later Mr. Justice Upjohn) and the terms of reference to it were stated thus:

" Whether there is any justification for allegations that payments, rewards, or other considerations have been sought, offered, promised, made or received by or to Ministers of the Crown or other public servants, in connection with licenses or permissions required under any enactment, regulation or order, or in connection with the withdrawal of any prosecution; and if so, in what circumstances the transactions took place and what persons were involved therein".

Mr. Keeton in his book points out that in both those inquiries an important part of the evidence consisted of hearsay, not only at second-hand, but at third or fourth-hand. In each of them the Tribunal however, when it came to reporting with respect to persons involved by that hearsay, disregarded it entirely and relied only on such evidence as would be admissible in a court of law. In my opinion it would have been monstrous if they had done otherwise.

The report by the Lynskey Tribunal stated in part:

" Much of this evidence would not be admissible in the case of an individual witness in proceedings against him or in litigation in which he was concerned. In coming to a conclusion as to the conduct of an individual witness and in particular whether any allegation made in reference to him has been justified, we have had regard only to such evidence as would properly be admitted in a case in which he was a party and his conduct was in question".

I am acutely aware of the dangers in and possible results flowing from the introduction of hearsay evidence even in these types of inquiry. When rumours are being pursued in an effort to track them to their source and determine whether or not there is any substance to them the proceedings take on an exciting hue and are lavishly reported in the Press sometimes even in glaring headlines which the public reads or misreads as facts rather than as steps being taken to determine what the true facts are.

With an awareness of those difficulties Lord Kilmuir in the debate in the House of Lords said this:

" The sanction of a public inquiry is necessary on occasions for the purpose of maintaining a high standard of public administration and the modern system was deeply aware of the inadequacies of the machinery on inquiry by a select committee, on the one hand, and the limitations of the ordinary processes of law on the other....

" One must frankly admit that there is a conflict between the needs of the state that the truth should be discovered on weighty matters which reflect on the functioning of its important agencies, and the position of the individual who finds himself involved. The vital point, as I think every peer has said, is that the procedure should only be invoked for weighty and important matters, for it is only then that the sacrifices on the part of the individual can be fairly demanded.

" That leaves our unending problem. Where the ordinary life of the ordinary citizen is invaded we must use all our skill and sympathy

"to ensure that this is done in the least hurtful manner. I hope that I shall not be thought to be presumptuous if I ask for the co-operation of Parliament and of the Press in this important task".

Mr. Keeton in the closing chapter of his book poses two questions the answer to which in his opinion should dictate the decision of a government in England as to whether a matter should be made the subject of an inquiry under the English Act. I endorse them as equally applicable to a proposed inquiry under our Act which will necessitate the pursuit of rumours. You may think them meritorious and I therefore pass them on to you. Referring to events preceding the establishment of a Tribunal as "episodes" he wrote:

"Assuming such episodes were still remembered, would you be satisfied that the truth about them would be known if there had been no inquiry by Tribunal? If the answer to that question is no, then the second question is, whether the value of establishing the facts outweighs the inconvenience and possible distress to individuals, which is involved in obtaining them, bearing in mind that the same factors are present in every criminal trial, in every contested divorce action and in many other kinds of civil trial".

When a Commission has issued under our Act requiring such an investigation the Commissioner has no alternative; he must pursue those rumours notwithstanding that doing so involves the admission of hearsay evidence. I can say, with some feeling, that it is a painful experience.

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P A R T S E V E N

CHAPTER XVII

AN OUTLINE OF THE ACTIVITIES OF FEELEY AND McDERMOTT

In dealing with the criminal activities of these two men I have found it impossible to pick out from the evidence and place in one compartment the portions thereof relevant to the second term of reference and in another the portions relevant to the third one and deal with each part separately. It is all so interwoven that even if it were possible to do so it would be impractical.

In dealing with that evidence as a whole my great problem has been to condense it and yet not omit essential parts.

That evidence disclosed that for a number of years these men were partners with others in the operation and management of certain illegal gaming establishments located in or adjoining the Metropolitan Toronto area; that they were associated with the operation of other illegal gaming establishments elsewhere in Ontario but it was impossible to determine the exact nature of that association.

Those in which they were partners were two in number; first, one located on the Centre Road near the Town of Cooksville in the County of Peel, known variously as the "Cooksville Club" and the "Centre Road Club", and second, one known as the Riverdale Club located at first on Eglinton Avenue in the City of Toronto and latterly in the Downsview area either in or near Metropolitan Toronto.

Those in which it was impossible to determine the exact nature of their association were three in number; first, one referred to generally as the

Roseland Club located in the Township of Sandwich South on the outskirts of the City of Windsor; second, one referred to generally as The Frontier Club located in the Township of Bertie in the Niagara Peninsula; and third, one known as The Tisdale Club in the City of Peterboro.

Despite the efforts of dedicated police officers some of those gaming establishments flourished for a very considerable time and became notorious before they were finally put out of business. That they continued to be operated so long with impunity finally led to rumours that they were being "protected" by "higher ups" or by persons at "Queen's Park", meaning thereby by persons in the Government whose responsibility was the maintenance and enforcement of law and order in the Province, specifically The Attorney General and his staff.

I hasten to say that as a result of my investigation I am thoroughly satisfied that those rumours were completely false. There was not a tittle of evidence of any such corruption or anything bordering on it.

There was evidence of an unfortunate association between these two men and another member of the Government, namely, Mr. James Maloney, the Minister of Mines, an association the extent and effect of which these two men in the course of their illegal operations in my opinion exaggerated in order to further their own evil purposes. Whatever else may be said of it, - and I shall be referring to it later herein, - this much appears certain to me, namely, that the effect of that association, even if it were known to The Attorney General and/or The Provincial

Secretary, - and there was no evidence that it was, - did not deter those Ministers or any person in their respective departments from an honest and faithful discharge of their official duties.

The evidence also disclosed that these two men were actively engaged in bookmaking at a number of places in the Metropolitan area; that in those operations they had "fronts" acting for them while they operated the "back-ends".

The evidence before me disclosed that to further their illegal operations they attempted to corrupt certain members of the Ontario Provincial Police and succeeded in bribing one, viz. P.C. Wright. However, I hasten to say that a Jury acquitted them on the charge of bribing him.

The evidence further disclosed that Feeley was guilty of most despicable conduct in cultivating the companionship of the wife of a dedicated police officer in the hope of obtaining through her information that would be valuable to him. It is impossible to say whether he succeeded or not. I do not think that officer's wife would intentionally disclose to him any information that she may have had.

The evidence further disclosed that these men in the course of their illegal activities employed certain lawyers who performed services for them the nature and extent of which I review in this report.

These men started with nothing and they wound up comparatively wealthy men. How wealthy it is impossible to say. Persons of their ilk do not usually keep all their money where others can count it or persons in authority discover it. They usually have a "cash and carry" system of their own and these men were no exception. As Mr. Humphrey, one of their solicitors, pointed out in evidence they usually paid by cash; at least that was his experience.

On one occasion when the police raided Feeley's swank apartment they found \$10,000 hidden in the toe of one of his shoes and another \$10,000 hidden in his dresser drawer. On another occasion together with another of their lawyers, Gebirtig, they were en route to buy an aircraft, a helicopter, Feeley carrying a suitcase with \$44,000 in it in one hundred dollar bills. It would have looked strange to the vendor of that aircraft if they had paid cash for it so on the way they stopped at a bank and purchased a draft for \$44,000. Having bought the aircraft they caused it to be registered in Gebirtig's name. The reason is obvious. Gebirtig was not so naive as to think that they had no ulterior purpose in so doing so he told them that if the Income Tax Department should inquire from him concerning the aircraft he would have to disclose that they were the real owners.

They acquired enough money also to purchase in the early fall of 1959 the assets of a company called Airgo Limited which owned a small fleet of aircraft. The initial investment was not staggering - it appears to have been about \$5,000 - but having acquired it they added other aircraft to the fleet. I was unable to follow the financial history of that company as counsel tried to piece it together and it may not be too important. They sold it in November, 1960.

On one occasion they actually gave their solicitor, Mr. Humphrey, an airplane which he thought had a value of about \$3500. He stated in evidence that he protested that he didn't want it, but they insisted that he take it, and it was registered in his name. But then later the strangest thing happened: They bought another one and took back the one they had given

him and turned it in on account of the purchase price of the new one which they put in the name of George Reid who was associated with them in their illegal gaming operations. Mr. Humphrey was a flyer and had his pilot's license but Reid was not. This apparently is the same airplane that McDermott caused to be flown to the Bahamas in the winter of 1958-59 where he used it to go island-hopping with a licensed pilot in search of a property where they could operate still another gaming establishment.

In the winter of 1961-62 these two men actually did acquire a gambling concession at Cat-Cay in the Bahamas and brought into association with them in the operation of that club none other than Samuel Hirschovitch, otherwise known as "Ginsey". And who was Ginsey? He had been employed as a dealer originally at the Centre Road Club and latterly was associated in the operation of the Frontier Club in the Niagara Peninsula.

With no other visible means of support they acquired enough money also to enlarge or remodel and refurbish at a cost of \$40,000 more or less a building at 132 Sixth Street in New Toronto, which place was referred to in the proceedings before me as The Finnish Club, and where they carried on some of their illegal operations, originally in association with one Ryan, - and they were then known as the three thieves, - and latterly by themselves.

They also purchased an apartment house in the City of Toronto which they later sold apparently at a profit and then put together \$50,000 to finance a small loans company which another lawyer, Louis Herman, Q.C., incorporated for them under the name Simple Finance Company.

For reasons that will become obvious later herein I must here digress in order to give the criminal records of these two men:

Feeley's Criminal Record:

January 25/45	Vagrancy	Sentenced to 20 days
February 7/45	Forgery	" " 6 months
" 9/45	Breach of War Industries Control Board Regulations	" " 15 days consecutive to sentence dated Feb. 7/45
" 24/47	Found in common gaming house	Fined \$10 and costs (Paid)
June 28/48	Keep a common gaming house	Fined \$200 and costs (Paid)
March 23/62	Conspire to effect an unlawful purpose (Section 408-2 of Criminal Code)	Sentenced to 18 months definite and 6 months indeterminate
	(This conviction is presently in appeal to The Supreme Court of Canada)	
March 26/63	Keep a common gaming house	Fined \$400 and costs (Paid)

McDermott's Criminal Record:

September 13/39	Break & Enter	Suspended Sentence
December 26/40	Break & Enter & Theft (Section 460 of Criminal Code)	Two years suspended sentence
August 24/44	Theft	Sentenced to 15 months
October 31/44	Break & Enter & Theft (2 charges)	Sentenced to 2 years less 1 day on each charge concurrent and consecutive to sentence imposed August 24/44
March 29/46	Released on ticket of leave	To expire July 21/46
February 15/47	Found in common gaming house	Fined \$10 and costs (Paid)

June 12/48	Found in common gaming house	Fined \$10 and costs (Paid)
September 14/54	Possession of unregistered firearms	Fined \$100 and costs (Paid)
March 23/62	Conspire to effect an unlawful purpose (Section 408-2 of Criminal Code)	Sentenced to 18 months definite and 6 months indeterminate
	(This conviction is presently in appeal to The Supreme Court of Canada)	
March 26/62	Keep a common gaming house	Fined \$4,000 and costs (Paid)

Returning now to Simple Finance Company, Limited; - Under the Small Loans Act, a Federal statute, they required a certificate of fitness, - in other words a certificate to the effect that they were the type of persons appropriate to the operation of a loaning company under that Act. As showing the shrewdness and stealth of these two men they actually got three such certificates, one from James Maloney dated February 3, 1958, one from Arthur Jolly, then a member of the Legislature, also dated February 3, 1958, and one from their parish priest dated February 5 and 6 respectively. Mr. Herman, their solicitor, actually also certified to their good character notwithstanding that he knew prior to 1958 that McDermott had a criminal record and that the police had been complaining of the fact that persons with criminal records were frequenting the clubs with which he and Feeley were associated.

I would suppose that, before their parish priest, they each presented an air of respectability.

Mr. Jolly gave evidence before me and swore that he had never met Feeley and knew nothing about

him; that he had never heard of McDermott until the spring of 1958 when McDermott telephoned him and later saw him and asked him to make an appointment for him with the Chief of Police of Bertie Township in which The Frontier Club was located so that he, McDermott, could discuss with the Chief what he was protesting were unjustified raids on that club.

Mr. Jolly could not explain how it came about that in those circumstances he signed certificates of character for both these men. He inclined to the view that he did so at the request of James Maloney who was one of his fellow members in the Legislature. Mr. Jolly insisted before me that he saw nothing wrong in giving certificates of good character to persons whom he had never met and of whom he had no knowledge. Needless to say, I was not very much impressed by Mr. Jolly's idea of the fitness of things. Indeed, I was not impressed by his evidence at all.

Mr. James Maloney was in a different position to Mr. Jolly. He did know these men. He may not have known as much about them then as he did later but I cannot avoid the impression that what he knew about them then should have repelled him from certifying to their good character. Mr. Maloney is not here to defend himself; he died on October 1, 1961. In possible amelioration for what he did on that occasion or what he did or is said to have done on other occasions not yet referred to it should be said, - I say it in all kindness but it needs to be said, - that unfortunately Mr. Maloney on occasions drank to excess and that may explain some of the things he did or is said to have done.

Here were two shrewd, evil and cunning men who, I am thoroughly satisfied, would take every advantage of any weakness in others to gain their own ends. All that is reflected in the thumbnail sketch that I have already given of them.

I shall now enlarge that picture by filling in some of the details as disclosed in the evidence before me. I cannot put before you even in condensed form all that evidence in one gob. Accordingly, it may be helpful if I indicate to you how I propose to do it.

I shall first deal with the evidence relating to The Centre Road Veterans Club, The Roseland Club and The Frontier Club. I shall have to take them in a group. The evidence relating to The Frontier Club will lead me to a discussion of what was referred to variously in the evidence as The Ramsay Brief or The Stringer Brief. It was referred to by Mr. Wintermeyer in his speech. Next I shall deal with the evidence concerning The Tisdale Club. Finally I shall deal with the evidence concerning The Riverdale Club.

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CHAPTER XVIII

THE CENTRE ROAD VETERANS CLUB

THE ROSELAND CLUB

THE FRONTIER CLUB

First: THE CENTRE ROAD VETERANS CLUB

The exact location of this club was at 2165 Centre Road. At that address Feeley and McDermott together with others commenced their gaming operations

behind a Federal charter which had incorporated Alpha Club Limited back in October, 1924. In 1954 one of their associates in the operation of that club, Laffrade, was charged with keeping a common gaming house on those premises. He was convicted but the conviction was later quashed on appeal.

Prior to the laying of the charge against Laffrade the Deputy Provincial Secretary had been corresponding with the Department of The Secretary of State at Ottawa in order to ascertain what steps, if any, could be taken to cancel that charter and there had been some correspondence back and forth between him and that department. Feeley admitted in evidence that at the time of Laffrade's trial it was suggested to him by one of the defence lawyers that they were in danger of losing that charter. Fearful of that possibility Feeley and McDermott through one J.P. McNamara who occupied a key position with the Army, Navy and Air Force Veterans in Canada obtained a license or permit, - I was never able to ascertain exactly what it was, - and thereafter these premises were operated under the aegis of Army, Navy and Air Force Veterans in Canada Unit 234 and continued to be operated in that manner until July 5, 1957. It is of prime importance that you understand that while it was being operated under that aegis it was not under Provincial control and therefore enjoyed the full measure of the exemption contained in what is now Section 168 of The Criminal Code to which I drew your attention at the beginning of this report.

Under date July 12, 1957, letters patent were granted under The Ontario Corporations Act incorporating

not only The Centre Road Veterans Association but also The Roseland Veterans Association and The Frontier Veterans Association and from that date forward these three clubs carried on their operations under those charters.

No matter under what name the club operated it was always in reality the club of Feeley and McDermott and those associated with them; they were the real operators and the premises were never anything other than a gaming establishment.

The granting of letters patent to corporations operating gambling establishments as notorious as they were came as a terrific shock to the members of the Anti-Gambling Squad of the Ontario Provincial Police who for years had been trying unsuccessfully to get them closed. There had been no referrals to the police before those charters had been granted and the police thought they had been let down by The Provincial Secretary and particularly by The Attorney General. They simply could not understand it but that was because they had not been taken into the confidence of The Attorney General ahead of time. I think that was a tactical error. The real purpose in granting those charters was to get these clubs under Provincial control so that far from letting the police down the real purpose was to help them.

There was more than a veiled suggestion by other counsel that there was something sinister about the whole affair; that there must have been a quid pro quo; otherwise why would Feeley and McDermott and the operators of The Roseland Club and The Frontier Club surrender the protection they had under the

license or permit or whatever it should be called which gave them the full benefit of Section 168 of The Criminal Code and take in return the Provincial charters which did not. It was said that to ask that question was to answer it and that they would not unless they had some assurance or understanding that they would be no worse off under the Provincial charters than they were before.

Under the same date that the Provincial charters were issued Commissioner McNeill of the Ontario Provincial Police sent this letter to Inspectors in charge of each of the districts in which those clubs were operating:

" Confirming instructions received by you this date from Assistant Commissioner J. Bartlett of this General Headquarters, dealing with the marginally-named subject, I wish to advise that the personnel of the Force under your supervision must be instructed to discontinue checking drivers and taking the names of occupants of vehicles entering the marginally-named premises.

Periodical observations may be continued, and it is understood that if the results of such observations warrant a raid, appropriate action must be taken without further instructions from this General Headquarters".

The suggestion that The Attorney General and The Provincial Secretary had a corrupt purpose in their minds is completely unworthy. Surely, in all fairness, corruption is not to be that easily inferred. For myself I think it should never be inferred. It is too serious a matter to be left to mere inference. It should be proved to the hilt.

But apart from all that I do not think there is or was anything to even justify that inference. There were rumours afoot for which there was some justification that as a result of a public outcry

against these places, particularly The Centre Road Club and The Roseland Club, the permit or license under which they were operating might be cancelled. Of course if that were so and Provincial charters were not issued in their stead then the operators would have no shield behind which to carry on their operations. But that might not happen even though the operators might be afraid that it would. They were in just as great a dilemma as The Attorney General. If it did happen and they had not a Provincial charter they were out, - finished. If it did not happen then the police would continue to be stymied. Was it not better for each of them to do exactly what they did? To ask that question I think is to answer it: A half a loaf is better than no bread.

When considering whether or not the Dominion Command of The Army, Navy and Air Force Veterans Association might or might not have revoked the license or permit under which The Centre Road Club and The Roseland Club were being operated another fact is to be borne in mind. The evidence clearly disclosed that Feeley and McDermott were in close association with McNamara who occupied a key position in that Dominion Command. In the late summer or early fall of 1959 The Provincial Secretary commenced proceedings that eventually led to the cancellation of the letters patent incorporating The Centre Road Veterans Association for cause. The corporation demanded a hearing and one was held and McNamara gave evidence in opposition to the proposed cancellation. In addition to that this same McNamara became an officer in a company called KRNO Mines which was a company which Feeley and McDermott caused to be incorporated to develop certain mining

claims that they owned in Ontario. When one looks back and assesses the potentialities that existed at the time that the Provincial charters were granted I think the conclusion is irresistible that The Attorney General acted not only properly but wisely in getting the operations of these three clubs under Provincial jurisdiction.

Prior to the issue of letters patent under The Ontario Corporations Act there was a regular bombardment of protestations to The Department of The Attorney General and or the Commissioner at the head of the Ontario Provincial Police protesting against the conduct of the police each time this club and The Roseland Club were raided. Those protestations were made by Mr. Louis Herman on their behalf. He said that he was contemplating legal proceedings to enjoin the police. In his evidence before me he stated that in making those protestations he relied upon the information given to him by his clients that there was no necessity for those raids and that the operations of those clubs were perfectly legal. Apparently Mr. Herman was more naive than I should have expected. As Mr. Humphrey put it in his evidence it was common knowledge that The Centre Road Club in any event was a gaming establishment. As I pointed out earlier, at the time Mr. Herman incorporated Simple Finance Company for Feeley and McDermott he then knew of the criminal record of at least McDermott but he thought he had reformed and was leading a respectable life. I can only say that the leopard does not so easily change its spots.

From the time the Centre Road premises began to be operated ostensibly by Alpha Club Limited

in 1954 until the letters patent of The Centre Road Veterans Association were cancelled on June 1, 1960, under circumstances that I shall describe later, the police despite persistent efforts never succeeded by raids or otherwise in getting sufficient evidence to sustain a conviction in respect of those premises. As I pointed out earlier there was a conviction in 1954 but it was set aside on appeal.

In 1954 thirty search warrants were executed at those premises. In the execution of one of them on September 1st of that year the police actually broke down the doors in gaining entrance. On November 24th of that year the police availed themselves of Section 174 of The Criminal Code which is a seldom used section and arrested everyone found on the premises on suspicion and they were lodged in jail in the early hours of the morning and later the most likely of them were questioned under oath before a magistrate but even by that process sufficient evidence was not obtained and all the found-ins were released. I will be referring to that occasion later in this report under the title "The Brampton Episode". The last raid in 1954 was on December 24.

On February 4, 1955, another raid was conducted but again with no results. In the early months of 1955, as I understand the evidence, Inspector Tomlinson of the Ontario Provincial Police visited the Dominion Companies branch at Ottawa to invoke the assistance of that Department and tried unsuccessfully to have the authority for the operation of these premises by The Army, Navy and Air Force Veterans in Canada revoked. A complaint was made to both the Dominion and Provincial Command of that association with respect to these premises as a result of which an inquiry was conducted by a

committee of the Dominion Command in, among all places, Mr. Herman's office, and it was reported that the committee found everything in order. All I can say is that the committee chose an odd place to hold that inquiry since Mr. Herman had been bombarding either Commissioner McNeill of the Ontario Provincial Police or The Attorney General's Department with complaints almost every time the police had raided The Centre Road Club or The Roseland Club. Between July 27, 1954, and July 22, 1955, he had written eight letters of protestation on behalf of The Roseland Club and between September 13, 1954, and June, 1955, he had written six such letters on behalf of The Centre Road Club.

In 1955 the Ontario Provincial Police attempted unsuccessfully to get an undercover agent into the premises. An application was also made on behalf of war veterans on the Ontario Provincial Police Force for membership in these veterans' clubs but those applications were ignored. The impression I gathered from the evidence was that by that time the police felt completely frustrated. Sergeant Anderson in his evidence stated that in 1955 the Anti-Gambling Squad was busy elsewhere in the Province. It is reasonable that if they felt frustrated with respect to these clubs they would concentrate their efforts elsewhere.

On March 1, 1956, an article was published in The Toronto Globe and Mail to the effect that gambling activities in Ontario were protected by Dominion charters. It prompted a question being put to the Minister of Justice, The Honourable Mr. Garson, in the House of Commons as a result of which Mr. Garson wrote The Attorney General inquiring as to how Dominion

charters had that result. In reply The Attorney General wrote Mr. Garson explaining how that result came about and pointed out that if the Minister could see fit to have the authority on which these clubs were being operated cancelled it would greatly facilitate the Ontario Provincial Police. Mr. Garson replied that the charters could only be cancelled on an application to the Court.

We come now to May 25, 1956. In Sergeant Anderson's diary for that date there is an entry showing that at 10:30 o'clock on the morning of that date he and Commissioner McNeill attended a meeting in The Attorney General's office at which the subject of these clubs, that is The Centre Road Club, The Roseland Club and The Canadian Merchant Navy Veterans Club (the predecessor of The Frontier Club) was discussed. There is no question about that much of the entry in his diary. But there was considerable question raised in the proceedings before me about the last item on that page. It is as follows:

"Gaming Houses - Execute Warrants only on complaints - Discontinue trying to get officers in for time being - to see what happens - confirmed by Comm. McNeill".

It was not until January, 1957, that The Attorney General learned that that was the impression that Anderson had of what had been decided at that meeting. In that month somebody from some church group asked him for some material on gambling problems in the Province for a debate or panel discussion or some such purpose. The Attorney General turned the request over to Mr. W.C. Bowman in his department who in turn passed it on to Commissioner McNeill who in turn passed it on to Sergeant Anderson. As a result information originating with Anderson came back on the reverse of that route to The Attorney General and then for the

first time he became aware of Anderson's impression. In his evidence before me The Attorney General said he was amazed and immediately got in touch with the Commissioner.

An instruction to raid "only on complaints" would be tantamount to an instruction not to raid at all because it would be so improbable that any complaint would be made. Such improbability is confirmed by the fact that no complaint was made. That such an instruction should be given would mean that The Attorney General was corrupt, that while his duty as chief law enforcement officer in the Province was to suppress crime here he was, to put it mildly, winking at it. I want to emphasize as emphatically as I can that in my opinion The Attorney General was thoroughly honest.

That such an instruction was ever given is completely inconsistent with the events both preceding and following that date. I have already reviewed the events preceding that date. I point out to you that on the very night of May 25th the Ontario Provincial Police conducted a raid on the premises operated by The Canadian Merchant Navy Veterans Club at Fort Erie and five days later, viz. on May 30, they raided The Roseland Club and gave it a thorough going over that lasted an hour and a half and in neither instance did they do so on a complaint. The suggestion that the members of the Anti-Gambling Squad were tied to a policy of raiding "only on complaints" is not borne out by the viva voce evidence given before me and in order that there may be no doubt about it I now quote from the evidence of Corporal Shrubbs:

"The Commissioner: There is one thing I want to get clear. Any time a raid was decided upon did you take the Commissioner into your confidence?

A. That was not necessary, my lord.

Q. Well, who decided whether a raid should or should not be made?

A. I would say Sergeant Anderson and myself pretty well decided the raids. We were left on our own a great deal. It was left to our discretion. When we knew or felt we had sufficient evidence or a complaint or sufficient material to make a raid then we would talk about it and - it wasn't uncommon that if he (Anderson) were away for a few days and I were there and felt a raid should be made then I made the decision and certainly he being the senior officer had the right to do this himself if I was away. We controlled that pretty well for ourselves for our own office."

I should point out that when Corporal Shrubbs was giving that evidence he was not referring to raids prior to May 25, 1956, but to the policy of the Department both before and after that date.

That evidence is in direct conflict with the note Anderson made in his diary and what is perhaps even more important it is in direct conflict with what Shrubbs put in two reports submitted by him, one dated September 18, 1956, to Sergeant Anderson, the other dated November 22, 1956, to Commissioner McNeill. In both of them he is reporting on a talk he had with Feeley on August 31, 1956, that covered many subjects.

In the report to Anderson Shrubbs said, inter alia:

"To elaborate on each subject would be as follows: -

(a) THE CLUBS they are running alright at present and are making money. The instructions passed to us is to leave them alone, no harm has been done. They are aware of these instructions."

In the report to Commissioner McNeill he said: -

"Feeley related his knowledge of various departmental and gambling branch matters to me at this time such as their being aware that our orders were not to do anything with respect to raids at the clubs unless we received complaints".

I do not know where Shrubbs could have got the idea that the police were to leave the clubs alone, that they were doing no harm. That is completely inconsistent with what The Attorney General was doing in his efforts to get rid of them. I incline to the view that Shrubbs did not have that idea and that he was careless with his language when he wrote that "these instructions" included any such orders.

Dealing with the report to Commissioner McNeill it is to be observed that Shrubbs does not say that the instructions to the Anti-Gambling Branch were to leave the clubs alone, that they were doing no harm. I feel certain that if he had included that in his report to the Commissioner he would have been called in and put straight. Feeley and McDermott got no information direct from The Attorney General's Department or from anyone within that Department but they undoubtedly were advised by Mr. Herman following his complaints of what he referred to as "nuisance raids" that The Attorney General agreed with him that "nuisance raids" should not be made.

I am satisfied that the members of the Anti-Gambling Branch felt that if they were given a free hand to the extent that they could raid those clubs nightly they could put them out of business; the customers would simply stop coming. They were disappointed that they could not do so and more or less smarting under that restraint. The Attorney General's Department knew the danger involved in that procedure, namely, that it might render the police liable to damages in a civil action. The police could not raid without a warrant and for each raid a new warrant would be necessary.

If they raided night after night without any results then there would come a time when it could be argued that there was no justification for the warrants and that obtaining and executing them thereafter was an abuse of the otherwise legal process. Early in 1955 McDermott had gone to Commissioner McNeill and complained of the frequency of the raids the police had been making. Mr. Herman in his protestations had made veiled threats of civil proceedings.

In 1955 the then Deputy Attorney General had advised the Commissioner of the Ontario Provincial Police of that danger but at the same time advised him that it would be proper to raid if, when and as circumstances justified the police in so doing. This posed a difficult problem for the police and we find Staff Inspector Tomlinson who was in charge of the Anti-Gambling Branch in 1954 requesting Commissioner McNeill in a memorandum dated November 29 of that year - that was five days after the famous raid on November 24 - to advise him "if the present standing order that the premises in question are to be periodically searched should be continued as in the past regardless of whether or not a complaint is received". Under date December 8 the Commissioner sent his memorandum in reply stating that

"If in your opinion the circumstances justify and there is evidence, after a reasonable observation, that gambling activities are being conducted in any establishment, appropriate action should be taken by personnel of the Anti-Gambling Branch under your direction regardless of whether or not a complaint is received".

He then referred to recent warnings by the Deputy Attorney General with respect to "nuisance raids" and the risk they involved.

Anderson in his evidence before me understandably could not recall everything that was said at the meeting on May 25. The only explanation that I can think of for Anderson having made that entry in his diary about "raiding only on complaints" is this, viz. that if the Anti-Gambling Squad was not to be permitted to conduct nightly raids then there was nothing that could be done but if complaints were made they would have to act on them. That is why he thus expressed himself, and he similarly expressed himself to other members of the squad, and it was the subject of discussion as they talked among themselves in the back end at Headquarters more or less commiserating with one another.

Getting back to January, 1957, when the Attorney General learned of the impression Anderson had, - as I earlier said he at once got in touch with the Commissioner and arrangements were made that the Commissioner would send him periodic reports so that he would be continually informed of what was transpiring. Reports were sent to him under dates March 29, April 5, April 12 and May 10 and another report was given to the Deputy Attorney General on June 5. Looking at those reports it will be seen that the situation had not materially changed. The police were still stymied. At the root of the problem were these Dominion charters. If they could only be gotten rid of the problem they presented would be solved.

Within slightly more than a month after that last report by good management and some luck these clubs that had been a thorn in the side of the Police were finally brought under Provincial control.

I proceed now to review what occurred concerning The Centre Road Veterans Association after

its incorporation on July 12, 1957.

In passing I should perhaps here say that there was a conviction in respect of The Roseland Club premises on December 30, 1957, and its charter was cancelled on February 14, 1958. Also that The Frontier Club ceased operations as a result of the persistent efforts of the Bertie Township Police on or about July 5, 1958, and it remained closed thereafter and the charter was cancelled on April 10, 1962. The operations at The Centre Road premises, however, continued for some considerable time thereafter.

From August 2, 1957, to November 26, 1957, The Centre Road premises were kept under almost constant observation by the Ontario Provincial Police.

In the early part of 1958 unsuccessful attempts were made to place an undercover operator in the premises.

Commencing on or about April 16 and continuing until June 12 the premises were kept under observation by the Port Credit Detachment of the Ontario Provincial Police. From June 12 to July 19 the Anti-Gambling Squad kept the premises under observation and stopped the cars arriving at the premises and checked the occupants. This practise of stopping the cars and checking the occupants was discontinued on July 19.

In December, 1958, Chief Constable McGill of the Toronto Township Police Force entered the picture. By that time rumours were circulating in the area that Municipal officials were interested in the operations of the club and the Township Police were indifferent to it. As Chief Constable McGill put it in evidence before me "snide" remarks were being made concerning

his Department and elected officials of the Township. He got in touch with Crown Attorney Davis who in turn got in touch with the Deputy Attorney General who arranged for a meeting between McGill and Anderson. In March, 1959, Anderson sent McGill an outline of the history of the club and the activities of the Ontario Provincial Police in connection with it. In the previous December news of McGill's awakened interest in this club reached Jack Laffrade, one of the persons associated with it, and he went to see McGill and tried to learn what program he intended to pursue and offered him a bribe of some liquor if he (McGill) would just forget about it. He was repulsed by McGill. There were consultations between McGill and Anderson with respect to the club and the special provisions in its charter, particularly the bars and bolts clause, and the provision that 95 percent of the membership had to be war veterans.

McGill then got a copy of the charter and sent it to William G. Davis, the local member in the Legislature, together with a history of the club, and pointing out how the police had been impeded in gaining entry, and etcetera. Mr. Davis then saw the Deputy Provincial Secretary to inquire about possible cancellation of the charter.

Under date September 4, 1959, Commissioner Clark sent a lengthy report on this club to the Deputy Attorney General and recommended cancellation of the charter.

On October 15 Mr. Bowman of the Attorney General's Department wrote to the Deputy Provincial Secretary enclosing the report and offering the assistance of that department.

Activities at the club subsided during the summer months and on December 10, 1959, the police of Toronto Township raided the premises. No arrests were made because, as usual, by the time the police gained entry everything was in order.

On October 28, 1959, McGill sent a long letter to the Deputy Provincial Secretary reporting the raid and what had been observed and outlining the history of the club and recommending the cancellation of the charter. He sent a copy of that letter to Premier Frost, The Provincial Secretary, Mr. William Davis, Crown Attorney Metcalfe, the Reeve of the Township and Commissioner Clark of the Ontario Provincial Police. That set off a chain reaction that led eventually to the cancellation of the charter on June 1, 1960. I need not bother you with all the details of what occurred between the date of that letter and the cancellation of the charter. However, there are some matters to which I should draw your attention.

There was a hearing called before the Deputy Provincial Secretary and Mr. Herman represented the club on that hearing. Evidence was introduced on that hearing as to the fortifications at the premises and showing that a large proportion of the members were not war veterans. The hearing having been completed there was some delay while the evidence was being transcribed. During that period of delay Mr. James Maloney telephoned the Deputy Provincial Secretary to put in a good word on behalf of the club. Also during that period Mr. Herman got in touch with the Deputy Provincial Secretary and said that if The Provincial Secretary would refrain from cancelling the charter the club would remove the

bolts and bars and fix up its membership list in order to comply with the terms of the charter. I am critical of that. The matter was at that stage sub judice. The hearing had been completed and the arguments submitted and the Deputy Provincial Secretary should have been left free of any outside pressures. No one, not even counsel, would dare approach a Judge after a trial was ended and while he had the issue under advisement, and the Deputy Provincial Secretary was entitled to similar deference.

The matter does not end even at that point. On May 12, 1961, Chief Constable McGill was interviewed by Chief Inspector Graham of the Ontario Provincial Police and according to Graham McGill told him that Reeve Speck of Toronto Township had told him that two members of the Provincial Government and an official in the Department of the Attorney General were connected with this club. That, of course, was hearsay. All sorts of rumours were floating around affecting officials at different levels of government. I conducted a searching inquiry to determine whether or not there was any substance to this one. Reeve Speck was called as a witness and he said he heard it from Reeve Clark of the adjoining township. Reeve Clark in turn said he heard it but could not recall from whom. He was a frequenter of this club and on something more than mere speaking terms with Feeley. He was questioned closely as to whether Feeley had ever told him so and he denied it. Clark was most embarrassed when it came to light that he was a frequenter of this club and was most repentant. Although he was embarrassed I feel confident that he was truthful.

I have to report that there was absolutely no foundation to the rumour and that it was nothing more than vicious, scandalous gossip.

Second: THE ROSELAND CLUB

It was located in the Township of Sandwich South on the outskirts of the City of Windsor. In chronological order it would appear that this club was first operated under the name Oldcastle Country Club and next under the name Border Cities Press Club and commencing in 1954 it operated under a license or permit issued by the Dominion Command of Army, Navy and Air Force Veterans in Canada and was known as Unit 327 of that association. It is more than a coincidence that it began its operations under that aegis about the same time that The Centre Road Club did. Like The Centre Road Club it ceased being operated under that aegis on July 12, 1957, when letters patent were granted under The Ontario Companies Act incorporating The Roseland Veterans Association. No matter under what name it operated or who operated it, like The Centre Road Club, it was always operated for illegal gaming purposes and nothing else.

When the club began to be operated supposedly by Unit 327 the real owners and operators were two men by name Leo Finnigan and Frank (Curly) Gardner but as I will later demonstrate Feeley and McDermott had some interest in its operations. Gardner gave evidence before me but after this Commission was established Finnigan left Ontario clearly for the purpose of avoiding being brought before this Commission to give evidence. The police traced him to the City of

Winnipeg and from there to Whitehorse in the Yukon. He returned to Windsor about the middle of August and he died very suddenly on September 15th.

Leo Finnigan's son Victor gave evidence before me and I may say at the outset that I believed him. He had been employed by his father as a sort of handyman around the club premises and in that way he learned some things concerning its operations. He said that in the beginning his father and Gardner were the only persons concerned in its operations. Gardner had no money but his father had. His father supplied all the necessary finances to make physical alterations to the building, equipping it with bars and bolts and blocked windows so that like the Centre Road Club it became virtually a fortress. In the beginning his father also supplied the necessary cash to finance its operations as a gaming establishment. Gardner was widely known in Detroit and elsewhere as a gambler and his job was to bring in the customers and look after the security. They were both chronic gamblers and by 1957 they were both broke. His father had actually squandered approximately \$180,000, that being the amount that he had realized on the sale of his interest in a manufacturing business which he and others operated in the City of Windsor prior to his becoming associated with Gardner in this club. He had not lost that money in the operations of this club but in the City of Detroit and elsewhere in gaming and in betting on the horse races and indeed on any other event that would permit betting. Thereafter the gaming operations at this club were financed by "American interests from Detroit". Victor Finnigan stated that he thought the name of the

man who carried the money back and forth was Nick Glassman. It is my impression that the witness is mistaken as to the name. There is other reliable evidence that the man who supplied the money was Vito Giacalone who was a kingpin in the operation of gambling establishments in and around Detroit. It is clear from that other evidence that when Giacalone came to these premises he was usually accompanied by one Eddie (Brokey) Guarrella as a sort of a bodyguard. That other evidence established that Guarrella was a trusted associate of Giacalone and associated with him in Giacalone's widespread illegal operations in the City of Detroit and elsewhere in the State of Michigan.

On November 13, 1957, this club was successfully raided by a detachment of the Ontario Provincial Police under Corporal, later Sergeant, and now Inspector Hatch. Gardner, Leo Finnigan, Ernie Amato and Arnold Pitt were arrested and charged with keeping a common gaming house. 28 found-ins were also arrested and charged as such. Among the found-ins were Giacalone and Guarrella. Giacalone had in his possession 6700 odd dollars and Guarrella 8500 odd dollars and Finnigan 1100 odd dollars.

Knowledge of that raid and those arrests was promptly conveyed to McDermott who lived at Port Credit on the outskirts of Toronto and he at once busied himself in employing counsel. He got in touch at once with Mr. Humphrey and instructed him. From Toronto Mr. Humphrey, Mr. Louis Herman and Mr. Walton C. Rose, lawyers, went to Windsor and so did McDermott. The accused were divided up between legal talent, some from Toronto and some in Windsor. Mr.

Humphrey appeared for Finnigan. Mr. Herman did not appear for any of them, nor did Mr. Rose. Mr. Rose in his evidence before me stated that he really did not know why he was taken down there. He was then a junior in the law firm headed by Mr. Herman. But when he was there McDermott found a job for him to do and he did it. I will describe it in a moment.

It was said that Mr. Herman went to Windsor to prove the charter. I have two observations to make with respect to that: One, that if it was necessary for him to prove the charter then Finnigan and Gardner could not have known much about it. Second, the charter could have been proved by merely producing it.

Throughout McDermott acted as though he were one of the accused. He sat in with the lawyers and the accused planning the legal strategy and was instrumental in setting up a meeting between Inspector Hatch and one Miller. Miller was the proprietor of a second or third class gents clothing store in Detroit known as "Sam's Store". Miller telephoned Hatch at Windsor and explained that he had a friend who had lost about \$8,000 at the Roseland Club and who would so testify at the trial.

That meeting was held in a bar in the City of Detroit. Miller was accompanied by a man who represented himself to be "Moishey" Rose who said he was a shirt salesman and that he was "sore" because he had lost this money and he thought the game was crooked. "Moishey" inquired what financial arrangements could be made if he were prepared to come to the trial and give evidence. Hatch replied that he would be treated the same as anybody else and tried to impress upon "Moishey" that it was his civic duty to come and give evidence.

After interrogating "Moishey", Hatch came to the conclusion that he did not know very much about the club. He would not give a statement. The interview was about to end when "Moishey" said to Hatch that the evening was still young and they should all go out together, that he, "Moishey", knew some smart girls who were ready for a good time. Hatch declined the offer. Moishey turned out to be Walton C. Rose who in the proceedings before me represented Feeley, McDermott and Gardner.

Mr. Rose gave evidence before me and he did not deny what I have already said with respect to the part he played at that meeting. It is crystal clear from the evidence that McDermott masterminded the whole affair, and Mr. Rose in explaining his conduct stated that McDermott had reported that Hatch had been attempting to get a witness in Detroit to give evidence and was offering to pay him for it out of a slush fund that the police were supposed to have had. Mr. Rose fell in with the suggestion of the meeting, so he said, for the sole purpose of ascertaining whether there was any substance to what McDermott had reported.

At the trial Finnigan and Gardner pleaded guilty and the charges against Pitt and Amato were withdrawn.

McDermott paid Humphrey's fees and expenses and as usual by cash.

I next draw your attention to the fact that on instructions from McDermott Mr. Humphrey prepared a mortgage from Gardner and his wife to himself covering their home on Bridge Avenue in the City of Windsor dated May 5, 1958, securing the sum of \$15,000. The mortgage did not bear interest and the principal became due in

May, 1975. It was registered on May 12, 1958.

McDermott explained to Humphrey that the mortgage was for the purpose of protecting Mrs. Gardner against the gambling propensities of her husband who might encumber the property to secure gambling debts. Of course he could not encumber it. He might encumber his own interest in it but not his wife's. To overcome that flaw in the suggestion it was then suggested that Gardner might browbeat his wife into encumbering her interest for his benefit.

About the time that the mortgage was given and registered Humphrey signed a discharge of the mortgage dated May 21st, 1958. Later that date was changed to November 21st, 1958, and curiously enough the discharge was given to McDermott.

McDermott gave Humphrey five thousand odd dollars with which to pay off a prior encumbrance on the property. Now, where did that money come from? For the answer to that question I turn to the evidence of McDermott.

He swore that he had no interest whatsoever in the Roseland Club; that Gardner owed him considerable money and his only interest in participating in the defence of Gardner and Finnigan was in trying to keep Gardner in business in the hope that if the operations of the club were not closed Gardner might be in a position to repay him the debt that he owed him. McDermott swore that Finnigan had given him, he thought, somewhere between \$5,000 and \$7,000, explaining that he had won that money but did not want Gardner to know about it and McDermott swore that he used that money to pay off the prior encumbrances covering the Gardner home in Windsor. He swore that he discussed the matter with

Finnigan and Finnigan agreed to it. I do not believe that story and in my opinion it is so fantastic that I suggest neither should you. Both Gardner and Finnigan were sentenced to a term of twelve months. I will be pointing out later that Gardner did not serve his full sentence under circumstances to which Mr. Wintermeyer referred in his speech and with which I will be dealing later. Finnigan did serve his sentence. While Finnigan was in jail his wife and family were in destitute circumstances with hardly sufficient to keep body and soul together. Humphrey in his evidence stated that on one occasion he met Mrs. Finnigan and that he actually may have out of charity given her some small amount to relieve her distress. Finnigan may have been a gambler but from the evidence of his son he was certainly not a hard-boiled, cruel man, and while he was in jail he fretted about the condition of his family. To me it is simply inconceivable that if McDermott had five or seven thousand dollars belonging to Finnigan that he, Finnigan, in the circumstances in which he then found himself would consent to McDermott using that money for the benefit of Gardner and yet that is McDermott's story. Then if it was not Finnigan's money that McDermott used it must have been his own and the question then arises why would McDermott be throwing good money after bad. According to him Gardner owed him a lot of money but here he was on his story putting up another \$5,000 to pay off the prior encumbrance on Gardner's home. While Gardner was in jail McDermott periodically made payments to Gardner's wife. Well he might holding as he did through Humphrey a mortgage on the Gardner home for \$15,000 under which only \$5,000 had been advanced.

Gardner was released from jail on ticket of leave by the remissions branch of the Department of Justice at Ottawa on or about April 22, 1958, on account of a flare-up in a heart condition and a diabetic condition from which he suffered. He was released on the condition that he report to a priest in the City of Windsor. Prior to his release he had been transferred from the jail in the County of Essex to Mimico and McDermott paid the cost of that transfer. When he was released he was received in open arms by Feeley who took him to his home.

Inspector Hatch in evidence aptly described Gardner when he said he was just like a snake; one minute you thought you had your hands on him and the next minute he wiggled free. He is totally unreliable and his evidence though under oath not worthy of belief. In my opinion he is a public menace and so are his friends and associates Feeley and McDermott.

Now, what was Feeley and McDermott's real interest in this club and why were they so keenly interested in the trial and why did they advance their own money to pay the lawyers? To answer that question I come back to Victor Finnigan's evidence. Whatever information he had concerning the operations of this club he learned either from his father or gleaned while working in and around the club premises. He swore that his father had told him that "Toronto interests", whom this witness was unable to identify because they were not identified to him by his father, were being paid a "straight salary" for supplying advance information as to pending police raids by the Anti-Gambling Squad of the Ontario Provincial Police and that such information had in fact been given.

That story has a familiar ring. That is the same arrangement that Simone, who was the main spring in the operations of The Riverdale Club and to which I shall be referring later herein, swore he had made with Feeley and McDermott in connection with the operations of that club. Feeley admitted in evidence that from that club he was paid a "straight salary" of \$500. monthly whether he was present at its nightly operations or not.

On one occasion the police tried to get an undercover operator into the Roseland Club premises. When he arrived his picture was taken by someone who, I was asked to believe, by coincidence had his camera with him. Victor Finnigan was present when that occurred and testified that he was told by his father later that advance information had been received at the club from the "Toronto interests" that this man was on his way.

After Gardner was released he kept demanding more money from Feeley and McDermott and actually communicated with Sergeant Anderson of the Ontario Provincial Police Anti-Gambling Squad and indicated that he wanted to come to Toronto and "tell all". He did come to Toronto and an arrangement was made by the Ontario Provincial Police whereby Sergeant Anderson would meet Gardner at an appointed place and they did meet on September 9, 1959. Knowing what an unreliable character Gardner was and that if he gave any information at that meeting he might later deny it Sergeant Anderson had a microphone and a recording tape strapped on his person. The only persons who knew of that were Commissioner Clark, Anderson and

Police Constable Wright of the Ontario Provincial Police Force. It was arranged between Anderson and Wright that Anderson would talk to Gardner and Wright would be located nearby in an automobile to follow Gardner after the interview would be completed. Anderson got no information from Gardner who stated that he would like to talk to the Commissioner and explain McDermott's operations to him. Anderson stated that he would make an appointment for that purpose with the Commissioner and Gardner left. Anderson returned to Headquarters and later Wright returned and reported that he had started to trail Gardner but lost track of him in the traffic down near the Union Station.

The next that happened was this: On September 11th Gardner telephoned Anderson and stated that he had a "reaction" from that meeting. Anderson thought that related to Gardner's physical condition but Gardner explained that what he meant was that someone "had contacted him". Gardner told Anderson on that occasion that he would telephone him later. On December 15th Anderson, not having received a telephone call from Gardner, went to Windsor and interviewed Gardner at his home. Almost the first thing that Gardner asked Anderson on that occasion was whether or not he, Anderson, had a "machine" on him, meaning, as he made clear later, a microphone and tape recorder. The inference is of course that in the meantime Gardner had learned from someone that at his meeting with Anderson on September 9th Anderson had a "machine" on him. The only persons who could have conveyed that information to anyone were, Commissioner Clark and Police Constable Wright and I am certain that the Commissioner did not.

Having been assured that Anderson did not have a recording device on his person Gardner began to talk and made early reference to the fact of the disappearance of one "Scrip" Mitchell who had been a police informer and had some time earlier disappeared from the Niagara Peninsula area under circumstances that indicated that he may have been murdered and Gardner indicated that the same thing might happen to him. He made one important statement during that interview, namely, he said that someone had made love to the wife of a member of the Force in order to keep in touch with that member through the wife. We do know because Feeley admitted it and there was other evidence confirming it that he, Feeley, had sought the companionship of the wife of a member of the Anti-Gambling Squad and had been out with her a number of times. The question poses itself how did Gardner know that at that date. That information must have emanated from Feeley or McDermott. Gardner could certainly not have heard it from the husband who did not know anything about it, nor from the wife.

Gardner's attempt to extort more money out of McDermott became so persistent that finally McDermott went to Humphrey and Humphrey went to the Commissioner of the Ontario Provincial Police and complained about him. The police did not follow up that complaint. Looking back it might have been well if they had done so. If an Information had been laid against Gardner and he had been arrested on a charge of extortion then, faced with the prospect of imprisonment, he might have disgorged such information, if any, as he then had with

respect to the operations of Feeley and McDermott on the theory that if he had to suffer so should they.

I leave The Roseland Club for the time being and pass on now to The Frontier Club.

THE FRONTIER CLUB

The history of this club is bound up with another one, namely, The Ramsay Club, and in dealing with that history I will be making references to certain addresses at which this club and The Ramsay Club from time to time operated.

The first address is 1693 Victoria Avenue in the City of Niagara Falls. For some time prior to 1952 the New Polo Club of Windsor carried on operations there. In March, 1952, it ceased operations following the conviction of one Peter Sacco and one other for operating a common gaming house at that address.

Following the disappearance of that club from the scene the next club found operating in the district was one known popularly as The Lorelei Club. (It took its name from a legitimate restaurant in the immediate area). It carried on its operation on Bertie Road in the Township of Bertie near the Fort Erie Jockey Club. It was actually operated by the Hamilton Bridge and Chess Club. The charter of that club was cancelled in 1954 following a conviction.

The premises on Bertie Road still known as The Lorelei were next operated by The Ramsay Club which had been incorporated under The Dominion Companies Act. It attracted the attention of the police who made

many visits to the club in their official capacity and one Felix Borelli was found to be in constant attendance there. I will later herein be referring to evidence of Borelli's association with Feeley and McDermott.

Some time prior to May, 1955 - the exact date was not ascertained - The Ramsay Club ceased operations at that address and later The Canadian Merchant Navy Veterans Association began operations there. It should be understood this was not a corporation over which The Provincial Secretary had any jurisdiction. This transition first came to the attention of the police in May, 1955.

The premises on Bertie Road were sold in July, 1956, to the Fort Erie Jockey Club and The Canadian Merchant Navy Veterans Association then moved the site of its operations to 3 Thompson Road in the Township of Bertie and it carried on its operations at that address until July 12, 1957, when The Frontier Veterans Association was incorporated under The Corporations Act of Ontario and from that date forward that corporation carried on its operations there. The charter of that corporation was cancelled in March, 1962.

I remind you again that Mr. Louis Herman had acted as solicitor in the incorporation of all three clubs, that is The Frontier Veterans Association, The Centre Road Veterans Association and The Roseland Veterans Association. I now pose the question, - what connection, if any, did Feeley and McDermott have with the operations at 3 Thompson Road and when did it commence.

Prior to January 1, 1958, the policing of Bertie Township was by the Ontario Provincial Police. In or about January, 1958, the duty of policing the Township was transferred to the Bertie Township Police Department of which one H. Johnston was the Chief Constable. It appeared to the police, both the Ontario Provincial Police and the Bertie Township Police, that these premises were being used as a common gaming house and they were kept under constant observation and many raids were conducted by them.

Between July 29, 1957, and the time the Bertie Township Police took over, the Ontario Provincial Police had conducted 15 raids and had attempted unsuccessfully to place an undercover agent in the premises. Between January 1, 1958, and June 27, 1958, the Bertie Township Police conducted 59 raids.

In 1957 when the policing of the area was under the jurisdiction of the Ontario Provincial Police Mr. Louis Herman wrote three letters to the Department of The Attorney General, one under date July 31, 1957, another under date September 12, 1957, and the third under date September 23, 1957. In the first of those letters he complained of what he asserted in substance was the harassment by the Ontario Provincial Police of The Frontier Club. In the second of those letters he complained about the conduct of the Ontario Provincial Police with respect to both The Frontier Veterans Association and The Roseland Veterans Association. It is clear from the evidence that by reason of the attention the police were giving these two clubs business was declining perceptibly.

Mr. Herman stated in evidence that he wrote each of these three letters on instructions from either Robert McLaughlin or Alfred (Syd) Ross. McLaughlin was steward at The Jordan Club in Toronto with which Feeley and McDermott had an affiliation. Ross had been steward of several clubs including The Ramsay Club when it operated in Bertie Township, The Canadian Merchant Navy Veterans Association, and in 1957 he was steward of The Frontier Club. During the proceedings before me I issued a subpoena requiring Ross to attend and give evidence before me but the police were unable to find him. In August, 1958, he had been indicted in the State of New Jersey for the offence of smuggling into the United States a quantity of Platinum Concentrate which had been stolen in Canada. He was released on bail but skipped his bail and the best information I presently have is that he is still on the "wanted" list in the United States.

I should here interject to say that in July, 1954, Mr. Herman wrote two letters to the Commissioner of the Ontario Provincial Police complaining of the actions of the members of that force in relation to The Roseland Club and between July 29, 1954, and April 22, 1957, he wrote eight letters to The Attorney General's Department also complaining of the activities of the force against that club.

In August, 1954, he had been retained by McDermott who said he was representing a "friend" in Windsor, Gardner, to defend Gardner's son and Leo Finnigan who had been charged with obstructing the police at The Roseland Club.

On September 13, 1954, he wrote a letter to the Commissioner of the Ontario Provincial Police complaining of the activities of members of that force against The Centre Road Club. On that occasion he had been consulted by Feeley, McDermott, McLaughlin and Thomas McKay (he was apparently steward of the club at that time) but he could not recall whether McLaughlin joined in the instructions to write that letter. It is not without significance, however, that McLaughlin was with the others on that occasion and on July 31, 1957, we find him joining with Ross in giving instructions to Mr. Herman to write The Attorney General with respect to The Frontier Club.

In February, 1958, by which time the policing of Bertie Township had been taken over by the Bertie Township Police Force, McDermott consulted Mr. Humphrey and complained of the conduct of the police with respect to The Frontier Club and he coupled with that complaint another one, namely that while that police force was harassing The Frontier Club it was not giving similar attention to The Ramsay Club which by that time had commenced operations at 1693 Victoria Avenue in the City of Niagara Falls. Mr. McDermott asked Mr. Humphrey to see what he could do about it and told him to confer with "Ginsey", - and you will recall who Ginsey was from what I have earlier said in this report, - and Felix (Chief) Borelli, both of whom were associated with the operations of The Frontier Club.

On McDermott's instructions Mr. Humphrey went to the Niagara Peninsula and after conferring with Ginsey, - I am not sure whether he also saw Borelli, - he went to see Chief Constable Johnston to register

his complaints. He got nowhere with Chief Constable Johnston who told him in substance that no Toronto lawyer was going to tell him (Johnston) what he ought to do in respect of a club that was suspected of carrying on gaming operations in his district.

Having been repulsed by Chief Constable Johnston Mr. Humphrey on February 13, 1958, then attended a meeting of the Police Commission of Bertie Township and repeated his complaints to it.

In order to get the full effect of the representations made to the Commission by Mr. Humphrey I have to refer to what he stated in evidence not only with respect to The Frontier Club but also The Roseland Club. From his evidence I extract the following:

"As far as the American connections are concerned in preparation for the Windsor trial in discussing this with all these different people it is my thought the way that these clubs at the border were run was that Canadians would secure the premises and that they would supply the workers in the club and that no workers, that no Canadians would be allowed in the club and it would only be Americans that were allowed in the club presumably on the theory that if Canadians went in and lost a lot of money there would be lots of complaints, whereas the Americans would complain to the American people, and then in order to get the American gamblers in there to gamble you would have to get American professional gamblers to come there, a flock of gamblers to come over into the border club and that is my recollection of it. I understood, from what little I went into, the - in the Fort Erie club that that was the same thing. They didn't allow Canadians in and in fact I think that was one of my representations to the Police Commission, that they should not concern themselves too much about it because no Canadians went into it".

Needless to say, I was shocked by what Mr. Humphrey there said, namely, that we in Canada should not be, as he put it, too much concerned with the fact that

gambling establishments should be operated in this country for the benefit of gamblers from the United States and I am not in any doubt that the members of the Police Commission were equally shocked. However, they appear to have listened patiently to Mr. Humphrey's representations but there was no change in the policy of the police.

Mr. Humphrey reported to McDermott what he had done pursuant to McDermott's instructions, and in his evidence before me Mr. Humphrey makes it perfectly plain that he had no doubt that at that time McDermott was speaking not only on behalf of himself but on behalf of Feeley because as Mr. Humphrey put it they were "partners".

Not having had any success through the efforts of Mr. Humphrey McDermott then thought he would approach someone higher up. So early in the spring of 1958 he telephoned Mr. Jolley whom you will recall was a member of the Legislature and he met him, and, so that there will be no doubt in your mind as to what McDermott said, I now quote from Jolley's evidence:

"Q. And what did he say?

A. He explained to me that he had a club at Fort Erie and that it was under a charter.

Q. Just a moment. Yes?

A. And that he was being, well, to use an expression, raided, and he felt it was not in order. The members were being embarrassed and it came under the jurisdiction of the Bertie Police Force and he asked me did I know the Chief of Police there.

THE COMMISSIONER: Just a moment.

MR. WILSON: Q. Now, was this club the Frontier Veteran's Association in Bertie Township, in your riding?

A. Yes, it was, sir.

THE COMMISSIONER: Q. Well, he identified it, I suppose as The Frontier Club, did he?

A. I didn't recall, sir, he even mentioned the name. He said "a club". He may have identified it.

"MR. WILSON: Q. At that time did you have knowledge of a club in Bertie Township?

A. I heard rumours of clubs. I never had any complaints of clubs. There could have been clubs. I don't know anything about clubs, sir.

.....
THE COMMISSIONER: Q. He asked if you knew the Chief?

A. Yes sir, and I said I knew him very well, he was a personal friend of mine, it so happened.....He said:

'Do you think you could get an appointment for me? I would like to talk to him.'

And I said:

'I will call him and try'.

Q. Just a moment..... And then you go on with your story as to what took place between you.

A. All right. So I called Howard, Chief Johnson at Ridgeway and he said:

'Sure, Art, I will give him an appointment, send him over.'...

Jolley did telephone Chief Constable Johnson either then or shortly after and with respect to that telephone call he was asked these questions and he made these answers:

"Q. Was Mr. McDermott present when you called Chief Johnson?

A. Yes he was, sir.

Q. And then what knowledge did you have of what took place between McDermott and Johnson after that.

A. Frankly, sir, I have no knowledge of the meeting. I met Howard -- Chief Johnson on several occasions and asked him how things were going at Ridgeway and Fort Erie and so on and he said:

'We are closing up the club'.

But what transpired between them, I don't know.

Q. Now, did McDermott tell you whether or not he would go to this meeting with Chief Constable Johnson or send somebody else?

A. Yes, he said he might go himself or he might send a lawyer."

On June 3, 1958, Mr. Humphrey went to see Mr. Bowman in the Attorney General's Department and referring to the representations that he made to Mr. Bowman he said:

"My best estimate of the conversation is that I complained that it would be unfair for the clients that I represented who were connected with this club in Fort Erie to be raided out of business when there was another suspected gaming house operating a short distance away that was not receiving any police attention at all to speak of and it seemed unfair to me bearing in mind that I think these people in Fort Erie always had told me that they might rear their heads again if the climate were suitable.....

The people who were connected with the club at Fort Erie had closed down just after a while because nobody came because the only people who came were the police and that just stopped their operation, but I had it in mind that if these police raids stopped or if the climate were of a different nature than it had been when they stopped they might start up again, sort of revive the club as it were. This is only surmise on my part".

In fact, due to the efforts of the police, operations of this club ceased in or about July, 1958.

Both McDermott and Feeley in their evidence disclaimed any interest in The Frontier Club. I did not believe either of them.

From the evidence that I have given you in condensed form and sometimes in detail in my opinion the conclusion is irresistible that they had some interest in that club but they were such liars that it was impossible for me to determine exactly what the nature of their interest was. McDermott would have me believe that Ginsey was operating this club. Ginsey and Borelli may have been in immediate charge but I have no doubt that Feeley and McDermott had their hands in it too.

There is other evidence connecting them with both this club and The Roseland Club, but I will refer you to it later under another heading where it fits in more neatly.

CHAPTER XIX

THE RAMSAY BRIEF

On August 7, 1958, District Inspector Stringer who at that time was in charge of District No. 8 of the Ontario Provincial Police with headquarters at the City of Peterborough came to the City of Toronto and met Sergeant Anderson and handed him a nine page typewritten brief headed "Re Ramsay Club, 1693 Victoria Avenue, 2nd Floor, Niagara Falls". It was filed as Exhibit 102 in the proceedings before me and for your ready convenience I have made it Exhibit 7 in the Appendix to this report.

The significance of this brief I regard as most important and I now deal with it under three headings:

First, its contents.

Second, its source.

Third, Stringer's connection with it.

FIRST - ITS CONTENTS:

It is important on account not only of what it contains but also of what it does not contain.

By turning to it you will observe that it gives in the most minute details the procedure that should be followed in a raid by the police on the club premises, the physical layout of the premises, the manner in which the gaming is carried on, what to look for in the cards that are used, the money, how it is waxed for easier handling, the consecutive serial numbers on the bills and where the money is kept, the pool table cloth and the lint therefrom, and other such details. It lists who the keepers are and who the dealers. It points out that the club is not a bona fide social club and therefore not entitled to the

exemption contained in Section 168 (2) of The Criminal Code.

There are two matters with which it deals that are of particular significance.

First - it recommends that the police should adopt the procedure authorized by Section 174 of The Criminal Code, by which section the police are empowered to bring persons found in, among other places, suspected gaming houses before a Justice of the Peace for interrogation. That procedure had been adopted by the police following a raid on The Centre Road Club in November, 1954. Feeley and McDermott had good reason to remember that occasion because they were among the persons who were arrested and brought to the Court House in Brampton in the early hours of the morning and detained there until about nine o'clock when interrogation of some of them commenced before Magistrate Blain. McDermott was so incensed by that procedure that he later went to Ottawa and complained to one of the senators about it. Humphrey swore that in the spring and summer of 1958 he had discussed Sections 168 and 174 of The Criminal Code with McDermott.

Second - the brief pointed out that the watchman at the downstairs door would be Izzadore Seigel (alias "Gimpy") who was very "feeble-minded". The significance of that statement consists in this, namely, that in a recorded telephone conversation between Feeley and Corporal Shrubbs on July 31, 1958, Feeley, in describing the procedure to be used in getting an undercover agent into the club, stated that "Gimpy" would be on the door and that he was not very bright and didn't "know one guy from another". In an earlier telephone conversation with P.C. Shrubbs Feeley had

identified "Gimpy" as having previously worked for "them", that is for Feeley and his associates, at their club at Fort Erie and having been so stupid as to allow an undercover agent to gain access there.

The brief is important in respect of one matter to which it makes no reference, namely, that the downstairs premises below the club was a gift shop with a branch post office and that if the police had any means of getting into the basement they might take the connection off the drain pipe and catch the dice as they would be flushed down the toilet. At the time Stringer handed the brief to Anderson he (Stringer) suggested that *modus operandi*. Stringer knew nothing about the layout of this building. Then what put that idea in his head? Feeley, in an earlier telephone conversation with Shrubbs, had made the same suggestion. That is not a mere coincidence.

SECOND - WHO WAS THE AUTHOR OF THIS BRIEF

Feeley and McDermott in their evidence before me each denied that he was. McDermott in his evidence said that "Ginsey" was. McDermott did admit that he had seen some pages from the brief after it had been prepared and sent on its way.

Stringer in his evidence swore that he received the brief through the mail and that previous to that Humphrey had telephoned him and asked him if a brief on the club were forwarded to him would he deliver it to the Anti-Gambling Squad. Humphrey in his evidence vehemently denied this and I believed him. Whatever else may be said of Mr. Humphrey I am thoroughly satisfied that his evidence was truthful.

Humphrey swore that the first time he heard about the brief was when Feeley disappeared and

McDermott was apprehensive that some harm had befallen him because this brief had been given to the police. McDermott was so agitated over Feeley's disappearance that he actually went to the police and reported him missing. It turned out that unknown to McDermott Feeley was on a drunken bender and had gone to New York.

All the evidence points to McDermott as the author. He may have collaborated with Ginsey in its preparation but he was the mastermind. As Mr. Humphrey stated in his evidence McDermott regards himself as a sort of sea-lawyer. He was constantly inquiring from Mr. Humphrey what the law was regarding this and that and in particular the criminal law as it related to gaming and betting. Mr. Humphrey stated in his evidence that there is probably no one in Canada knows more about the successful operation of a gaming establishment than McDermott, and Feeley is equally qualified.

McDermott and Feeley and P.C. Wright were later arrested as a result of undercover operations conducted over a period of many weeks by P.C. Scott of the Ontario Provincial Police and charged in several counts including conspiracy. Mr. Humphrey did not act as counsel for any of them because, as he explained in evidence before me, at their trial he might and likely would be named as having been a co-author of this brief. He was so named by P.C. Wright to P.C. Scott during the latter's undercover investigation. That fact had come to the knowledge of Humphrey on the preliminary hearing of the charges against Wright who was the first of the three to be arrested and charged. McDermott could not understand Humphrey's reasoning and during the course

of the trial in 1962 Sergeant Anderson was discussing the subject of the brief with Humphrey in the presence of McDermott and McDermott interjected and said in substance "Supposing they do prove we had something to do with it; So What!"

Humphrey was so vexed and wrought up over the statement that he had anything to do with this brief that he tackled McDermott about it several times and suggested that he was the author. He stated in evidence before me, and I believed him, that he never could get a direct answer from McDermott who always evaded the suggestion by prattling about "rumours" and "hearsay". I can quite appreciate that McDermott would be thus evasive because that was exactly his attitude before me. When from time to time he was pressed to explain various matters he babbled about "rumour" and "hearsay" and men's "fundamental rights and human freedoms" but did not explain.

THIRD - WHAT WAS STRINGER'S CONNECTION WITH THIS BRIEF

On August 5, 1958, Stringer telephoned Sergeant Anderson long distance from Peterborough and stated that he had some information of such a confidential nature that he could not discuss it on the telephone. Arrangements were made as a result of which Stringer came to Toronto that day and met Anderson. Stringer opened the discussion by referring to some inconsequential matters that could easily have been disposed of on the telephone. Then he went on to say that while he (Stringer) was at his summer cottage in Algonquin Park two young lawyers had "dropped in" to see him and one of them had stated that there was a club operating in Niagara Falls which was causing him some concern and that he was anxious to do something about it and would assist in any way

possible. Anderson suggested a method by which the lawyer could co-operate. Without going into the details that method required Stringer to get in touch with the lawyer. Stringer did not name him but said he would get in touch with him at once and find out how he would react to the suggestion and see Anderson the following day.

Stringer telephoned Anderson the next day and said he could not keep the appointment but that he would see him the following day, that is the 7th, and he did so. He did not mention the lawyer or refer to the plan that Anderson had proposed but he produced the brief and said he had received it in the mail.

Not long after that Stringer sent Corporal Rawlings of the Peterborough Detachment to the Ontario Provincial Police Headquarters in Toronto to get the brief. Needless to say, it was not given to him. He was questioned in the hearing before me as to why he did so and his feeble explanation was that it contained information that would be valuable to young officers and that he wanted it for that purpose.

Before discussing this brief and Stringer's connection with it any further I think it important to bring to your attention evidence showing an association between Feeley and Stringer as far back as 1955.

In June, 1955, Stringer and P.C. Shrubb met at the St. Regis Hotel in Toronto and discussed the possibility of Shrubb being transferred to No. 8 Division of which Stringer was in charge. It is unnecessary for me to go into the details of that discussion. It will suffice to say that it involved a possible promotion for Shrubb and his transfer to Cobourg.

On August 31, 1956, Feeley who for some time had been trying by devious ways to worm his way into close contact with P.C. Shrubbs had a long and, so Feeley thought, confidential talk with Shrubbs. That interview took place in Feeley's white Cadillac car and according to Shrubbs extended over three hours during which they discussed many matters. During that meeting Feeley disclosed that he knew of the discussions Shrubbs had with Stringer back in 1955 and to which I have just referred. Feeley could have learned of that only from Stringer. Certainly Shrubbs did not tell him.

Returning now to the Brief:

I have already drawn your attention to the knowledge Stringer had of the physical layout of the building in which The Ramsay Club was located and that he did not get that information from the Brief because it did not mention it. He did not suggest that he got it from the lawyers if, indeed, his story to Anderson concerning them was true. He did not get it from Humphrey because he had never met him. In his evidence before me he stated he would not know Humphrey if he saw him and Humphrey swore he never telephoned Stringer at any time. He did not get it from any member of the Anti-Gambling Squad. Obviously he got it from the authors of the Brief or someone co-operating with them in their efforts to have this club successfully raided.

In his evidence before me Stringer swore that he had learned through Humphrey that Feeley had an association with Shrubbs's wife. For the reasons I have just stated he could not have learned of that association from Humphrey and he certainly did not learn of it from Shrubbs. Once again it would appear that there is only one other source left and that is Feeley.

When Stringer left Anderson on August 5th he said he would get in touch with the lawyer whom he said had spoken to him in Algonquin Park. He could only do that if he knew the lawyer's name. When he was giving evidence before me he did not know the name of either of them. Indeed, before me, he stated that he did not think they were lawyers because they were not "the type". Stringer had been a police officer with the Ontario Provincial Police Force for thirty-one years and would realize the advisability of getting the identity of those two men. The best he could do in his evidence before me was to say that they probably told him their names. His whole story concerning these two mysterious men is so fantastic as to be unworthy of belief.

The above does not exhaust all the evidence pointing to an association between Stringer and Feeley. There is still more but in order that you may understand it I must digress.

On the night of May 21, 1958, Feeley telephoned Shrubb at his home and talked to him for more than an hour. Their conversation was interrupted by the telephone connection being cut off. Shrubb called the operator and asked to be reconnected. The operator asked what number he had been talking to and he explained that he did not know, - that the party had called him. The operator asked him to wait a moment and she would reconnect the line. He asked what number the number was and she replied "Crescent 8-2538". She connected Shrubb with that number and a male voice answered and Shrubb asked for "Vince". The party answering said that Vince was not there. Shrubb protested that he had just been talking to him, whereupon the male voice told Shrubb to

hang up, that Vince would call him back, "Just say you talked to Jack". It is a reasonable inference that "Jack" was Jack Laffrade. Shrubbs hung up and almost immediately Feeley called him back. He asked Shrubbs what had happened and Shrubbs said he did not know and their conversation was continued.

Crescent 8-2538 was the number of a telephone in an apartment at street number 5 Woodlawn Avenue in Port Credit occupied by one Helen Mary Costello. She testified in evidence before me that some time about May or June, 1958, an intimate friend of hers, by name Jack Laffrade, asked her if a friend of his could use her phone number for long distance calls. She alleged that she did not know why he wanted to make those arrangements but she nevertheless agreed to it. This arrangement continued for three or four months and when, at the end of each month, she received her monthly account from The Telephone Company she gave it to Laffrade and it was paid. She recalled that Laffrade mentioned the name "Ginsey" whom she knew was a book-maker.

Now, who was Laffrade? Without going into details it will suffice to say that he was actively associated with Feeley and McDermott in their bookmaking operations and in their gaming operations at The Centre Road Club.

The police on the authority of a search warrant obtained from The Telephone Company the records of calls charged to that number and among them were two long distance calls to Stringer at Peterborough and they were both person to person calls. One was on May 13, 1958, at eleven o'clock at night that lasted for thirteen minutes and the other was on May 19, 1958, that lasted for five minutes.

Stringer in his evidence before me could not recall having received telephone calls on those dates. He tried to explain them by stating that a real estate agent who said he lived in Toronto had called him several times to inquire if he (Stringer) was interested in purchasing some real estate; that this agent had actually gone to Peterborough to see him and had given him his business card and his name was J.C. MacDonald; that he (Stringer) told him that he was only interested in acquiring a place down south and that the agent had called him to point out values in Georgia and Florida. (At a later date Stringer did buy a place in Palm Beach, Florida, but not through any agent).

A search of the registered real estate agents in Toronto at that time was made and there was no one among them by the name J.C. MacDonald. This real estate agent would appear to be about as mysterious a fellow as were the lawyers who just happened to "drop in" to see Stringer in Algonquin Park. The only difference is that this time Stringer did get his name.

There were three men on the Ontario Provincial Police Force, all of whom were certainly dedicated police officers, most honourable men and beyond reproach. They were Sergeant Anderson who was at the head of the Anti-Gambling Squad operating out of the headquarters in Toronto, Corporal Shrubbs who was under him, and Sergeant Hatch who was stationed at Windsor. Shrubbs resigned from the Force on January 15, 1959, to become Chief of Police at Peterborough and was stationed there in that capacity at the time of my appointment as your Commissioner. Hatch must be given credit for putting

The Roseland Club out of business almost single-handed. He knew there was a "leak" somewhere and information was getting to the operators of that club of impending raids. He requested permission to withhold reports from Headquarters so that if that was the source of the "leak" knowledge of what he was doing or was proposing to do could not reach those operators from that source. This was discussed at a meeting between certain persons on the Force and Mr. W.B. Common. Mr. Common recognized the merit in Hatch's proposal and actively supported him at that meeting.

I cannot speak too highly of the assistance given to me by both Anderson and Hatch. I single them out at this stage only for the purpose of giving you the background against which to assess certain conduct by Stringer. When he spoke to Anderson on August 7th and gave him the brief he attempted to sow the seed of disaffection and dissention by telling Anderson to beware of Shrubb and slyly suggesting that Shrubb was trying to turn the other members of the Anti-Gambling Squad against Anderson.

In August of 1957 Stringer telephoned Hatch from Peterborough and following that call Hatch came to Toronto to see Stringer who told him that he (Stringer) had a problem in his district in connection with which the services of an officer like Hatch would be valuable; that a large cabin cruiser was operating in the Kawartha Lakes as a gambling place. He suggested that Hatch come to work under him; that he had already talked with Commissioner McNeill who was at the head of the Ontario Provincial Police and that everything had been arranged and all that remained to be done was for Hatch to request

the transfer. Hatch declined. On November 29th Stringer just happened to be passing through Windsor on some private business and he stopped over and again made the same suggestion to Hatch. He said that just before he left Toronto he had again discussed the matter with Commissioner McNeill and all arrangements had been made for the transfer. Again Hatch declined.

Commissioner McNeill died on February 14, 1962, and there was no way of checking Stringer's story. We do know that he never got in touch with Hatch about the suggested transfer.

I now report to you that in my opinion Stringer's usefulness as a member of the Ontario Provincial Police is ended.

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CHAPTER XX

TISDALE CLUB

This club was incorporated by letters patent under The Ontario Companies Act in 1925 and its activities were apparently carried on in South Porcupine for some years.

In 1956 it was operating under that charter, or more correctly other persons were operating behind that charter, concurrently at three addresses, 132 Sixth Street in New Toronto, 1595 Lake Shore Road in the Village of Long Branch and 339½ George Street North in the City of Peterborough.

On November 14, 1955, as a result of complaints the police conducted a raid at the Peterborough address

and as a result certain persons including Neil Harrington, Ronald Horton, Richard O'Brien and Kenneth Fleetwood were charged with keeping a common gaming house and some 28 others charged as found-ins. Without at this stage giving the history of that prosecution it will suffice at the moment if I simply say that on January 16, 1957, following a plea of guilty Harrington, Horton, O'Brien and Fleetwood were convicted as keepers and 17 found-ins convicted as such. I will be returning later to the history of that prosecution and the punishment imposed on the keepers. Meanwhile I turn to what was transpiring at the New Toronto and Long Branch addresses.

At the New Toronto address one John Pleschuk was in charge and at the Long Branch address one Kenneth Currier was in charge. At both those addresses they were carrying on bookmaking. It is clear on the evidence that they were merely fronts for Feeley and McDermott and in their bookmaking operations they both used the same back end. Pleschuk in his evidence before me categorically stated that he had been employed by McDermott commencing some time in 1952. Feeley and McDermott in fact both admitted that Pleschuk and Currier were their employees.

On May 10, 1957, as a result of undercover operations by a police officer at the New Toronto address John Pleschuk and Hubert Chapell were charged with keeping a common betting house there. They were represented by Mr. David Humphrey and Mr. Arthur Maloney as counsel. During the trial some question arose as to who was in occupation at that address and Sol Gebirtig, lawyer, who - he said out of curiosity -

was present as an observer at the trial, was called to give evidence. In the course of his evidence he made it crystal clear that through his efforts The Tisdale Club of South Porcupine had authorized the opening of the two branches at New Toronto and Long Branch respectively and he did the legal work in connection with the establishment of the branches at those two addresses. From his evidence I also extract the following:

"I became aware that the Tisdale Club, that a branch of the Tisdale Club had been convicted in the city of Peterborough, and having quite a bit of experience in these matters I thought it would not be too long before the charter would either be cancelled or the Head Office would be instructed, or informed, that they were not to have any more branches. Now, by this time, this club had quite a membership, maybe a hundred, maybe a hundred and fifty, and I called a meeting some time during the latter part of January, it would be around maybe the 18th or 19th January," - (I pause to point out that that would be within a day or so following the conviction at Peterborough) - "and I advised them of the information I had ascertained, and I suggested that we attempt, immediately, before we ran into any problem with the Provincial Secretary's Office, who have control over charters, that we immediately seek another club, from which we could obtain two branches, and I informed them that I knew such a club, and requested that they make an application to have branches opened from the Finnish Social Club of Timmins."

The apprehension of Sol Gebirtig was shared by others. Under date January 15, 1957, Mr. James Maloney wrote to The Deputy Provincial Secretary stating that he understood the charter for this club was held in the name of two brothers by the name Sgro and that they have one branch of the club operating in Peterborough. Then he goes on later in the letter to say that it has occurred to him that some step might be taken to have the charter cancelled and that he was most anxious that the charter not be cancelled

as he had been assured that the offence for which these men were convicted would not be repeated.

Following receipt of that letter the Deputy Provincial Secretary discussed the matter with his Minister and then replied to Mr. Maloney stating that it had been decided not to cancel the letters patent if the corporation would discontinue the branch in Peterborough and not open any other branches in Ontario.

Under date January 30, 1957, Mr. Louis Herman wrote to the Deputy Provincial Secretary stating that his firm had been instructed to assure the Department of The Provincial Secretary that this club would not at any time tolerate any gambling activities whatsoever within its club and for that reason had cancelled the branch which formerly carried on under this name in Peterborough. In that letter he further said this:

"This club has no intention of operating any branch whatsoever and merely wishes to carry on as heretofore in South Porcupine.. We trust that this is sufficient to assure you of the bona fides of this club and that it may be permitted to carry on as heretofore in South Porcupine alone".

"Heretofore" it was not carrying on at South Porcupine alone; it had two other so-called branches operating, one in New Toronto, the other in Long Branch. That fact was not brought to the attention of The Provincial Secretary. Vincent Sgro, one of the two brothers on whose behalf Mr. James Maloney wrote the letter dated January 15, 1957, knew that fact because in 1957 he was President of that club and according to Gebirtig on instructions of Pleschuk a formal application had been made to that corporation to open those two "branches".

Enclosed with Mr. Herman's letter was a copy of a letter signed by Vincent Sgro as President of The Tisdale Club, the dateline on the letter being 70 Bruce Avenue, South Porcupine, January 21, 1957, and addressed to The Tisdale Club at 339½ George Street, North, Peterborough. Without going into the details it will suffice to say that the letter stated that the branch at Peterborough was expelled from membership.

Returning now to the activities of Mr. Gebirtig in connection with the New Toronto and Long Branch premises: As a result of his activities branches of the Finnish Social Club of Timmins took over at those two addresses. It is more than a coincidence that Vincent Sgro at that time was a director of the Finnish Social Club. It is also not without significance that in 1957 according to the annual returns filed in The Provincial Secretary's Department Vincent Sgro and George Ellies were directors of The Tisdale Club and that in 1955 Vincent Sgro had been a director of the Finnish Social Club of Timmins and in 1956 George Ellies was a director of that club.

I digress to point out that Vincent Sgro who as president of The Tisdale Club was so opposed to gambling at the Peterborough branch was in bad company when he was a co-director with Ellies of The Tisdale Club. I say that because this is the record of George Ellies:

March 26, 1935,	uttering, Section 467,
March 10, 1936,	sentenced to two years
March 1, 1938,	false pretences, sentenced
May 25, 1948,	to 60 days
September 24, 1956,	receiving stolen goods,
	sentenced to 60 days
	Minors Protection Act,
	fining \$10 and costs
	keeping a common gaming house,
	fining \$100 and costs.

Further, Ellies' name appears on the list of membership of the Centre Road Veterans Club and Feeley says that he purchased the charter of The Finnish Club from Ellies and paid him \$200 for it.

Following the arrest of Harrington and Horton and the others on November 14, 1955, at Peterborough McDermott retained Mr. Humphrey. That apparently was the first occasion upon which Mr. Humphrey acted for McDermott. McDermott telephoned him and said that Mr. Gebirtig would be one of the counsel and the accused wanted to know if Mr. Humphrey would also act. Mr. Humphrey agreed and from that time forward McDermott displayed keen interest in the defence of the accused. The accused were convicted on December 15, 1955, and from that conviction they appealed. Pending the appeal which by the way was allowed and a new trial directed McDermott actually took the bail bond to Peterborough to be signed by the accused and brought it back and gave it to Mr. Humphrey.

The interest of Feeley and McDermott in that club is not left to inference. Mr. Gebirtig in his evidence stated that they were the "moving spirits" in the operations of that club at Peterborough and he was in a position to know. Having so stated, I put the further question to him: "No question about that?" and his categorical answer was "No".

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CHAPTER XXI

THE RIVERDALE CLUB

One Dominic Simone was the leading figure in the operations of this club. He has always been a professional gambler.

For some time prior to 1953 he operated a "floating crap game" in the City of Toronto. That is to say the game was not operated at a fixed address but was moved from place to place. There are advantages and disadvantages in that technique. The advantage, of course, is that the police have difficulty in catching up with it as it is moved from place to place, but so have the potential customers who may not always know exactly where it is being operated and that is a disadvantage to the operator. The operator has to weigh the advantages against the disadvantages and decide which technique he will adopt. If he has a social club charter then he can use it to his advantage as a screen in operating at a fixed address and if in addition he has some assurance of "protection" then of course the advantage of operating at a fixed address outweighs the disadvantages.

That was the position in which Simone found himself in 1952. About the middle of that year the police did catch up with his "floating" game. He was not arrested but the proprietor of the house where the game was being conducted was. Simone was well known to the police for his gaming proclivities and they were keeping a watchful eye upon him.

In his evidence before me Simone stated that he had an associate, one Sam Mulle, who had a social

club charter incorporating The Riverdale Veterans Association; that he (Simone) was approached by one Ralph Clarke as an emissary of Feeley and McDermott who stated that if Simone would "operate" at a fixed address Feeley would finance part of "the bank" and could provide the police protection in return for which Feeley and McDermott were to have a "piece" of the game. Simone further swore that an arrangement was then made to open a place on Eglinton Avenue just west of Bathurst Street under the name of The Riverdale Veterans Association; that Feeley and McDermott would supply part of the "bank" and receive a proportionate amount of the profits; that monthly the sum of \$500 would be taken "off the top", \$100 of which would be paid to Sol. Gebirtig as his fee for keeping the charter and club records in good standing and \$400 be used to pay for the protection.

The club operated for a short time at the Eglinton Avenue address and then moved to more commodious quarters in Downsview where it continued until December 1953 when it was successfully raided by the police and put out of business.

Feeley in his evidence before me denied Simone's story about the protection. He stated that an associate of Simone, one Eddie Blair, approached him and McDermott to go in with Simone in the operations of the club; that they did so and received a percentage proportionate to their contribution to "the bank". He admitted that the sum of \$500 was taken "off the top" monthly and paid to him but he swore that it was by way of a salary or wage. He did not deny that he may have paid Gebirtig but said he did not recall doing so.

Feeley and McDermott were seldom, if ever, at the club premises during gaming operations but Feeley admitted that when they were not there either Blair or Clarke looked after their interests. He did not suggest that any part of the \$500 was paid either to Blair or Clarke to compensate them for acting as their representatives. The whole of that money went into the pockets of Feeley and McDermott but Feeley denied using any part of it to pay for protection.

Feeley's story that the \$500 was paid to him as a wage is utterly fantastic. He and McDermott got their profits from the operations of the club proportionate to their financial contribution. If it was by way of a wage or salary then there would be no reason for them paying out part of their wages to Gebirtig and yet Feeley admitted that he may have done so. If he did then it must have been pursuant to at least that part of the arrangement that Simone swore had been made at the beginning of their joint operations.

Simone swore that he estimated that Feeley and McDermott had received about \$50,000 from the operations of this club. Feeley in his evidence stated that Simone's estimate might be reasonably accurate.

Blair is dead. Clarke was interviewed by me but when he was wanted to give evidence at the open hearing he had disappeared and could not be found. Feeley and McDermott admitted that after he was interviewed by me and before he disappeared they, accompanied by their associate Jack Laffrade, had conferred with him one night in an automobile in a parking lot in the west end of Metropolitan Toronto.

Simone swore that during the operations at Downsvieview he received one tip-off from McDermott of a raid that was made shortly after and took advantage of it so that when the police arrived there was no evidence of illegal gaming.

In order to get to the gaming room at the Downsvieview address the police had to pass through several doors at each of which it was customary to have a watchman stationed and there was a buzzer at each of those doors which when pressed gave warning in the gaming room. On the night of the successful raid, December 15, 1953, the police experienced no difficulty in getting to the gaming room without notice to Simone and his associates who were in charge of the game being conducted there. Apparently the guards at the several doors were not at their respective stations when the doors were opened. Simone's theory is that he had been double-crossed by Feeley and McDermott who wanted the customers of The Riverdale Club for their own operations at The Centre Road Club. That could be so but there is considerable in the evidence to refute the suggestion. It would appear that the operations at The Riverdale Club were financially successful. They must have been if the share of Feeley and McDermott over a fifteen month period amounted to \$50,000. On the night of the successful raid the police discovered that Simone was using crooked dice. When this was discovered one of the customers, a former professional wrestler, screamed his resentment and demanded the return of \$30,000 that he had lost, failing which he threatened to do violence to Simone. Simone was sentenced to jail for a period of three months.

After his release he demanded from Feeley and McDermott a sum in the neighbourhood of six or seven thousand dollars which included the money which he said had been paid to Feeley and McDermott for the protection which they did not supply. He became most insistent in his demands and according to Feeley in order to get rid of him they paid him upward of \$1500. Simone demanded more and according to him John Papalia, who was widely and fearfully known as The Enforcer, interviewed him and told him he had better leave Feeley and McDermott alone and he gave Simone either \$100 or \$200 which he said was "personal".

There is no doubt that Simone still bears great resentment against Feeley and McDermott, and Clarke for some unaccountable reason at one time seems to have shared that resentment. The two of them went out to The Centre Road Club and, according to Simone, while he kept watch Clarke gained entry to the club premises and set it on fire and while it was burning telephoned McDermott to come out and see "his club" which was in flames.

I did not believe everything Simone swore to but this much is certain that Feeley and McDermott were joint operators with him at The Riverdale Club and their receipts from that operation were enormous. It was part of the gambling empire that Feeley and McDermott with the assistance of others succeeded in setting up in this Province and from which they emerged wealthy men.

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P A R T E I G H T

CHAPTER XXII.

THE FLOWER POT STORY AND PART OF THE SCOTT REPORT

This story involves James Bartlett, the present Deputy Commissioner of the Ontario Provincial Police.

He joined that force in October, 1927, as an ordinary constable and was promoted from time to time in rank. He was appointed Assistant Commissioner on November 1, 1955, and Deputy Commissioner on August 1, 1958.

In July, 1955, he was appointed a Justice of the Peace and thereafter it was customary for him to sign the search warrants that were executed by members of the Anti-Gambling Branch of that force. He was thus in a position where he knew ahead of time the places that were about to be raided and approximately when those raids would take place. He was thus in a position where he could be a valuable ally to the operators of those places.

As of July 7, 1957, his immediate superior was Deputy Commissioner Loughheed and at the head of the force was Commissioner McNeill.

In accordance with the practice within the Department, he, like all the other members of the force, kept a police diary. His diary for 1957 was produced during the public hearings before me and entered as Exhibit 143. He had previously produced it when I earlier interviewed him on March 2, 1962. He had to get it from his lawyer on that occasion, having given it to him some time earlier. He did not give me any satisfactory explanation for having done so and of course in doing so he violated the rule of the police force.

That diary is a most extraordinary one, - extraordinary for what it does not as well as for what

it does contain. On page after page is written in ink the bare notation "8:30, Reported Office" and nothing else. He adopted the strangest and most extraordinary method in making those entries that I have ever heard of. In his evidence before me he swore that he used to make them for days ahead of time. If that part of his evidence was true then apparently it never occurred to him that Divine Providence might suddenly call him to his eternal reward and after he would be dead and buried his diary would show that he was still at the office, having arrived there each day as usual at 8:30 A.M. Judged by his diary, like Mark Twain, the report of his death would have been an exaggeration.

Some such story was necessary in order to explain the entry in the diary for Tuesday, July 30. On the page for that date written at the top in ink is the usual entry showing that he reported at the office at 8:30 and below it in pencil are printed the words and figures "Flower Pot, 5:30". The only other entry in pencil in the whole diary appears on the page for July 29 where there is written "Paul Bauer, Chicago. Compassionate message". He explained that entry by saying that Paul Bauer was a friend of his who lived in Chicago and that Mr. Bauer had telephoned him and said there had been a death in the family and asked if he (Bartlett) could locate some relatives who were vacationing in Ontario so that they might be advised.

Before giving you Bartlett's explanation of the pencil entry in the diary for July 30 I draw your attention to the fact that in the diary for the date

Sunday, July 7, appears this entry in ink, -

"9.00 p.m. call from one Feeney re appointment for Monday evening" and for the date Monday, July 8, appears this entry also in ink, - "8.40 p.m. Feeney and McDiarmid to house, cream cadillac - about acquiring property on 400 Highway. Thought orders may have been issued re new policy for Anti-Gambling Branch. Knew C. on vacation and Dep. in hospital". (C. means Commissioner McNeill and Dep. means Deputy Commissioner Loughheed).

Asked in evidence to explain the pencil entry under date July 30 Bartlett told this extraordinary story. He swore that on that Sunday evening, July 7, he received a telephone call from some man who said he was Vincent Feeley asking for an appointment to see him the following evening; that on the next evening Feeley, accompanied by McDermott, came to his home and told him that they were interested in acquiring property on Number 400 Highway for the purpose of opening a gasoline station and that they understood that he (Bartlett) had a good friend in the Department of Highways, the inference being that this "good friend" might help them. Bartlett swore that in reply he said "I thought you people were in the gambling business". They then asked if there had been any new instructions to the Anti-Gambling Branch; he replied there had not. He swore that he had some misgivings as to their real motive in coming to see him and that he indicated the interview was ended and they left.

He swore that on Tuesday afternoon, July 30, about 5:30 o'clock his telephone at home rang and he answered it and identified himself and a voice said "We have left a parcel for you under your back steps.

If you have a look for it I will call you back". That ended the conversation. Bartlett apparently did not ask who was speaking or anything else and in evidence he swore he did not recognize the voice. He swore that he told his wife about it and together they looked under the back porch and in a flower pot they found \$1,000. in ten and twenty dollar bills secured by a rubber band. He took the bundle indoors and together they counted it and then he immediately put it back where he had found it.

He swore that about twenty minutes later the telephone rang again; he answered it and the same voice asked if he had found the parcel and he replied "Yes, I've found it. You had better come and take it out of here"; the party calling just laughed and he (Bartlett) hung up the receiver.

He swore that the next morning when he went to his office he made that entry in pencil. Asked as to why he made it in pencil rather than in ink he gave the very feeble explanation that he used the first writing instrument that came to hand and it happened to be a pencil. Now you will understand why there had to be some explanation of the fact that the entry immediately above it was in ink while this one was in pencil. If he was making his entries for the whole day at the same time, having started to do so in ink he would have completed them in ink.

Needless to say, I did not accept that feeble explanation; it was just too fantastic to be credible.

He swore that during his whole career on the Force up to that time no one had ever tried to bribe him and yet here were persons, whom he said in evidence he suspected were Feeley and McDermott, trying to bribe him,

and that is all he put in his diary with reference to it. He said he thought that was enough because he knew what it meant.

Even more extraordinary is the fact that he did not report it to anyone in authority until after the present Commissioner was appointed as such on August 1, 1958, - that was more than a year later, - and sometime after that date he reported it to him. He said that he reported it to him then because he thought the Commissioner ought to know about it. Prior to that he did not even mention it to anyone else on the force. He kept it a complete secret from everyone in the Department.

Asked as to why he did not report it to anyone in authority he said that the Commissioner was away on vacation and the Deputy Commissioner was in the hospital.

Commissioner McNeill returned to his office from his vacation on August 1st. Bartlett swore that he made several attempts to tell him about it but was unsuccessful because the Commissioner was ill and not in his office very much. He admitted in evidence that he realized it was standard practice within the Department to make a written report about a matter such as this. He said he thought of doing so but did not and could give no explanation for having failed to do so.

Until Saturday of that week according to Bartlett the money remained in the flower pot. On Wednesday and Thursday evenings the same voice called on the telephone.

On Saturday of that week he telephoned a friend of his, by name Clayton Kehoe, whom he said he knew had been a gambler in earlier years associated with the Alpha Club when it was located in the Town of Leaside.

You will recall that it later commenced operations at 2165 Centre Road, Cooksville. Kehoe came to his home and Bartlett confided in him what had occurred and asked him if he could help in getting the money back to Feeley and McDermott. Kehoe said he would see what he could do so Bartlett gave the money to him.

Without prolonging this story it will suffice to say that Kehoe gave evidence before me and stated that he gave the money to Jack Riggs. Riggs gave evidence and stated he gave it to Robert McLaughlin and there the provable chain ended. McLaughlin died in 1961. McLaughlin was manager of, with a minimal ownership interest in, the gambling establishment known as The Jordan Club in which Riggs also had an ownership interest, and according to Riggs so did Feeley and McDermott, or at least it appeared to him that they had. Riggs went there expecting to see Feeley and McDermott but they were not there at the time so he just left the money with McLaughlin with instructions to give it to them when they arrived.

Feeley and McDermott in their evidence while admitting the visit to Bartlett denied that they had any knowledge of the money, and, of course, that they received it from McLaughlin. McDermott swore that the visit to Bartlett's home was Feeley's idea and said when he got there he was "damned embarrassed". Having observed McDermott as he gave evidence before me I cannot imagine him ever being embarrassed. He is filled to overflowing with brazen assurance.

You will recall that earlier in this report where I reviewed some of the history of The Frontier Club I described the almost frantic effort that McDermott was making commencing at least as early as July, 1957, and continuing through to July, 1958, to

protect the interests of that club. I need not repeat what I there said but in the light of what I am now about to say I should here emphasize that after The Ramsay Club reopened at 1693 Victoria Street it was running in opposition to The Frontier Club and McDermott through Mr. Humphrey was complaining that the police were not giving it the same close attention that they were giving to The Frontier Club. Then came the Ramsay Brief on August 7, 1958. Keeping all that in mind I now draw your attention to a matter that occurred on June 2, 1958, involving Bartlett.

On June 2, 1958, he sent by hand to Sergeant Anderson a typewritten memorandum which was entered as Exhibit 104 in the proceedings before me and which was as follows:

"Sgt. John M. Anderson

Re: 1693 Victoria Street, Niagara Falls,
Alleged Bookmaker - Large Scale -

A Long Distance call this date
 Proprietors said to be one Louis Anzelli,
 and Benny Nicilleti. Said to be hooked up
 with American Gangsters.

For your attention please.

Jas. B."

Fortunately Sergeant Anderson kept that memorandum and stapled it in his diary.

Bartlett in explaining that memorandum in his evidence before me swore that on that date he received an anonymous long distance telephone call, he thought from Niagara Falls, giving him that information so he just typed out the memorandum and sent it to Sergeant Anderson so that he could take charge of it. That was the beginning and that was the end of it as far as Bartlett was concerned. He made no entry in his own diary concerning it, - even in pencil.

Here he was, the third in command of the Ontario Provincial Police, receiving a message, even

though anonymous, advising him that American gangsters were hooked up with large scale bookmakers in Ontario and he treated the whole thing in that casual way. He was a much older and more experienced policeman than Anderson and I should have thought that it was of sufficient importance to at least merit some discussion. He said in evidence that having regard to the fact that the call was anonymous he thought what he did was adequate. I point out that although he did not think the matter to be of sufficient importance to record it in his diary he apparently did consider it of sufficient importance to sit down at his typewriter and type out that memorandum and at once sent it to Anderson. In contrast with all that when some persons - he was reasonably certain who they were - attempted to bribe him he thought that was of sufficient importance to make an entry in his diary, even though he only could understand it, but not of sufficient importance to require him to give a typewritten report thereof to his superiors. When we put the two occurrences parallel to one another there is a lot left to be explained. Bartlett did not explain to my satisfaction the marked contrast between the way in which he treated the one occurrence and the way he treated the other.

The date of the next occurrence that reflected adversely on Bartlett was May 23, 1960. In order that you may understand what occurred on that date I must first inform you of two matters.

The first is this: - The Ramsay Club which had been operating in Bertie Township ceased operations at that address in August, 1958, as a result of the constant attention of the Bertie Township Police. (You will

recall that The Frontier Club closed its doors in July, 1958).

In the fall of 1959 The Ramsay Club re-opened at 1648 Stanley Street in Niagara Falls. From that date forward it was referred to by the police and in the evidence before me as The New Ramsay Club, although it was still being operated under the original Federal charter. It will suffice to say that there is evidence that Feeley and McDermott had some interest proprietary or otherwise in its operations. Felix Borelli was active in its operations and you will recall that he had been active in the operation of The Frontier Club up to the time it closed.

The second matter is this: - Early in February, 1960, P.C. George Scott who was a member of the Anti-Gambling Branch of the Ontario Provincial Police began an investigation the full history of which is covered by me later in this report. He was pretending to be in league with P.C. Wright who had been a member of that branch but had recently been transferred out of it to Belleville and for a money consideration being paid to him and with the approval of Commissioner Clark he was giving "tip-offs" to McDermott of impending raids on The New Ramsay Club and The Centre Road Club. He gave written reports to the Commissioner as that investigation progressed.

In the ninth of those reports which is dated May 23, 1960, he wrote that on May 5 he telephoned McDermott and started to tell him that The New Ramsay Club would be raided that night but he was interrupted by McDermott who said that he already knew, that Jimmy Bartlett had signed a warrant and had told him. In his

report Scott said that statement had been made in an "almost joking manner". In fact Bartlett did sign the warrant authorizing that raid and it was executed on that date.

Also in the ninth report Scott stated that on May 17 Wright told him "Bartlett receives money from Joe McDermott for advising him when he signs a search warrant relating to the clubs" and that on one occasion at a party Bartlett had received \$2,000. from McDermott for that reason.

McDermott in his evidence denied having made that statement to Scott and denied paying Bartlett any money.

Wright in his evidence denied making that statement to Scott.

Scott in his evidence stated that he had correctly stated in that report what had been told to him.

As between Scott on the one hand and Wright and McDermott on the other I accept Scott's evidence.

Now, where does all that evidence leave Bartlett? The statement by Wright to Scott that Bartlett was being paid by McDermott is completely hearsay so far as Bartlett is concerned and would not be accepted in any court and for the reasons set out by me elsewhere in this report where I dealt with "Hearsay Evidence" I ignore it. Likewise the statement by McDermott to Scott that Bartlett had told him of the impending raid is also hearsay so far as Bartlett is concerned and for the same reason I ignore it.

Having ignored everything that is said about Bartlett in Scott's ninth report, what is left in the evidence as I have reviewed it in my respectful opinion necessitates his removal from the Force. His purported

explanations simply do not explain his conduct and leaves him in an aura of suspicion and distrust.

_____ " _____ " _____

CHAPTER XXIII

OTHER BRIBES OR ATTEMPTED BRIBES

On the hearings before me there was considerable evidence of bribes or attempted bribes of police officers.

In this portion of my report I deal with them under appropriate headings.

SHRUBB and FINNIGAN

On May 10, 1954, P.C. Shrubbs received a telephone call from Leo Finnigan about nine o'clock in the evening following which they met near the corner of Queen Street and Spadina Avenue in the City of Toronto. Finnigan knew Shrubbs as a police officer who in the course of his duties as a member of the Anti-Gambling Branch of the Ontario Provincial Police had carried out investigations at the premises of The Roseland Club.

Finnigan explained that he was in Toronto on other business and had decided while here to get in touch with Shrubbs. He related that as a result of unfavourable publicity in the Windsor Daily Star concerning the gaming operations at those premises he found himself in trouble. His investment in those premises was substantial; the building had been laid out in a manner adequate for a gaming establishment and he wanted an opportunity to continue to operate it as such. He said that he would cater only to wealthy Americans and employ only American help; that it could be operated at a very substantial profit, and if Shrubbs would co-operate with him he would give him the "lion's share". Shrubbs rejected the suggestion but Finnigan persisted. He offered to purchase for

Shrubb an hotel in Chatham of which Shrubb had some knowledge and which was valued in the neighbourhood of fifty or sixty thousand dollars, or any other hotel or motel that Shrubb might consider would be a profitable investment and suggested the title could be placed in the name of any person whom Shrubb might name. Alternatively, Finnigan offered to purchase a home in Toronto for Shrubb up to a value of twenty-five thousand dollars "if a working arrangement could be arrived at".

Shrubb repulsed him and the meeting ended by Finnigan saying that if later Shrubb should change his mind he would "welcome hearing from him".

There were no witnesses to that discussion. It took place in Finnigan's automobile.

That same night Shrubb reported the incident to Inspector Tomlinson but there being no witnesses to corroborate Shrubb's story nothing was ever done about it.

P.C. SHRUBB and CRONIN

John F. Cronin joined the Ontario Provincial Police in December, 1941. On September 1, 1943, he was assigned to the Anti-Gambling Branch and remained there until April 1, 1954, when he was transferred to the Unsatisfied Judgments Department. He rightly regarded that transfer as a demotion. He resigned on July 17, 1954.

He was called as a witness before me and closely examined particularly as to his finances.

When he joined the Force he was twenty-nine years of age and swore that he joined in order to make

a living. If his story is to be believed he had done very well financially up until that time; he had, so he swore, two thousand dollars in Government bonds and \$18,000 in cash, all of which he kept buried in preserving jars in the ground beneath his father's garage on a farm in the Township of Albion.

He swore that after he joined the Force he continued to bury his money there and he estimated the amount thus added at between \$30,000 and \$35,000. Actually his net earnings during that period were only \$28,095.03. Asked to explain the difference he swore that he did odd jobs such as cutting grass in the cemetery and even helping in digging graves.

Without trying to reconcile his figures it would appear from some of his evidence that at the time he resigned he had in the neighbourhood of \$50,000 buried underground.

Asked to explain why he buried his money he swore that he did so because he had no confidence in the banks. If his story is true he had no confidence in anybody because he swore he told no one of his cache.

He got married in 1943. His wife worked and her weekly earnings were about \$35 but he swore that from the time he got married until his wife quit working in 1953 the two of them lived on her earnings so that he was able to save all his own.

He had not lost all confidence in the banks, or at least if he did he failed to warn his wife. It was discovered that while he was still on the Force she had an account in her name in trust in a branch of The Bank of Nova Scotia. He swore that it was just a small account which she held in trust for their infant son.

In 1942 on his own admission he had a bank account in Port Arthur where he was then stationed. He admitted buying a bond for \$1,000 and after paying for it there was not much money left in that account.

In 1942 he had to borrow \$50 from one Hector Miller, a fellow officer, because he was short of money. In September of that year he had to come from Port Arthur to Toronto to give evidence at the Assizes and the District Inspector at Port Arthur had to advance him \$50 because he was without funds.

He also bought furniture "on time" which is hardly consistent with his story of having money cached away.

A few weeks before he resigned he and one Rudolph Zacek together bought a motel near the City of Kingston. The purchase price was \$150,000 with a down payment of \$50,000 and the balance secured by mortgage. Of the cash payment Cronin put up his share, namely \$25,000, which he extracted from the preserving jars, but he left, so he said, about \$5,000 still there.

I could not follow all his bewildering figuring but his net worth as of January 1, 1955, according to a statement filed by him with the Income Tax Department, was \$58,953.

Taking that statement as correctly showing his worth as of that date he had made great financial strides during the years he was on the Anti-Gambling Squad. In thirteen years he had accumulated that amount when his earnings were only \$28,000 more or less.

He probably did bury money in the ground but he could do so only when he had money to bury and it

would seem a reasonable conclusion that he had little or none when in 1942 he was borrowing and buying furniture on time.

I rejected his explanation that he was burying the money because he had no confidence in the banks. That statement is so fantastic as to be incredible. Then he buried it for some other reason. The reason is obvious. He did not want it to become known that he had it and if it became known the source of it could not be traced. It is plain that the source of it was not his salary.

Shrubb in his evidence stated that on May 3, 1955, Cronin telephoned him and said he had a matter he wanted to discuss with him. Arrangements were made as a result of which the two of them had a lengthy discussion in Cronin's car out in the Township of Scarborough.

Cronin opened the discussion by saying that he had a share in the club "out there", meaning the Centre Road Club. He said that "they" were going to open two more clubs, one at Fort Erie, the other at Windsor; that he felt Shrubb could help them successfully operate the three clubs and if he did there would be a considerable amount of money in it for him. He mentioned certain motel transactions of which he had knowledge and said that he was sure that if Shrubb would follow his suggestion that he could, within a year's time, have a sizeable sum of money to pay toward a twelve or fifteen unit motel. Shrubb stated that he was not interested and Cronin replied that if he should change his mind to get in touch with him.

Cronin in his evidence admitted the meeting and said that he asked Shrubbs "if he would be interested in looking after The Cooksville Club", to which Shrubbs replied either "Who do you represent?" or "In whose interest are you? Are you speaking for yourself or someone else's interest?", and to that Cronin answered "It could be".

Asked as to what he meant by "looking after" the club he said it was a double-barreled question; that he was trying to ascertain whether Shrubbs was protecting the club; that he was really carrying on an investigation of his own and that if he learned that Shrubbs was protecting the club he might have gone to see The Attorney General about it.

Asked as to why he used the words "It could be" he said he was just trying to draw some reply from Shrubbs; that he did not intend to imply that he was representing either himself or the operators of the club. He said that he had been bothered by Inspector Tomlinson driving around his motel at Kingston in dark glasses and parking nearby and, as he thought, spying upon him, and all that made him think of The Centre Road Club; so he decided to come to Toronto to see if it was still running, and he had driven out there the night before and observed that it was and that led him to interview Shrubbs to see whether the club was running despite Shrubbs or because of him. Having learned from Shrubbs that the club was operating in spite of him he congratulated him on account of his honesty.

Cronin, if he was to be believed, was still on the side of the State in its battle against McDermott and the others who were still running this gaming establishment. If that were so he soon changed his

allegiance. He and McDermott became intimate and a friendship developed between them that prompted McDermott to later say that Cronin had the heart of a lion. The admiration was no doubt mutual. They were more or less kindred souls, - each having the same hobby, gardening, - that attracted them to one another. Need I say more? Cronin's explanation for seeking that appointment with Shrubbs and his statements to him were as weird and fantastic as his explanation of the buried money.

Two days after the interview Shrubbs submitted a confidential report of it to Commissioner McNeill but because there were no witnesses nothing was ever done about it.

I believed Shrubbs.

ARMSTRONG-CRONIN-McDERMOTT

I ask you to keep in mind that Cronin was removed from the Anti-Gambling Branch on April 1, 1954.

On the night of May 5, 1954, P.C. Armstrong, who was a member of the Anti-Gambling Branch, attended at Cronin's home for the purpose of returning a book that he had borrowed. The early part of the evening was spent in social intercourse but toward the end of the evening Cronin made some veiled suggestion about the possibility of the two of them going into business together. That did not create much impression upon Armstrong.

Later Cronin answered the telephone and he spoke to someone in connection with some sort of a business deal. That too did not particularly interest Armstrong.

When Armstrong was leaving Cronin suggested he would accompany him, which he did, and suggested they walk along a certain route, which they did. Having separated, Armstrong continued on his way alone until suddenly a car pulled up to the curb and the headlights were turned off. It was driven by McDermott. He engaged Armstrong in conversation, inquiring discreetly about the Anti-Gambling Branch. Finally he said to Armstrong "Look, we need a friend". Armstrong, sensing the significant trend of the conversation, indicated that the interview was ended. As they were about to separate McDermott suggested that Armstrong forget about the matter.

On arriving at his home Armstrong immediately telephoned Sergeant Anderson and reported the occurrence to him and on May 5 he gave a confidential written report of the occurrence to Commissioner McNeill.

On May 13 the Anti-Gambling Squad raided The Centre Road Club. McDermott was there. As usual everything was in order. When the opportunity presented itself McDermott suggested to Armstrong that he should join his "ball team" and, pointing to some bets that were being made (this was not in a "bank" game) and in which several thousand dollars were at stake said "How would you like to have that kind of money? This would be peanuts as far as we would be concerned. You and I would make a great team with what you know and my help". Later that same night McDermott said to Armstrong "If you came on my team you would have an hotel of your own within a year, and be driving a new car, and could say 'To hell with the Department'.

All you have to do is phone 'your wife' at this number" - pointing to the telephone nearby. "You know everything that's going on with your outfit". Armstrong replied evasively.

The next day Armstrong reported the occurrence to Staff Inspector Tomlinson and together they saw Commissioner McNeill and reported to him. Armstrong suggested that he be permitted to pursue the matter with McDermott but the Commissioner thought that Armstrong was too young and inexperienced for that type of investigation.

Following the raid on the Centre Road premises on November 24, 1954, and the arrest of the found-ins and the interrogation of some of them before Magistrate Blain (The Brampton Episode) Sergeant Anderson made a written report to Staff Inspector Tomlinson. In that report appears the following:

" The following facts are related by Provincial Constable Frank Armstrong as taking place between Joseph McDermott and him:

'During the stay of the principal persons involved in the operation of the Club, along with those members that frequent the premises, Joseph McDermott made it known to me that he was still hoping for a friend that could supply the information concerning the operations of this Branch relating to him and to the Club. He renewed his offers of \$20,000. to \$40,000. or the nice down payment on a Motel somewhere in the Province. He also made known to me that he has quite a great deal of knowledge concerning my personal life. When the Court room was being cleared to proceed with the case involving the Club, J. McDermott, as he left, asked me not to forget to write down his telephone number for future reference, also that he would like me to give him my address so that he could pick me up to take me on fishing trips where we could get together and be real friends. Provincial Constable Wright overheard the conversation concerning the fishing trips'."

Armstrong in his evidence before me confirmed the substance of what is there recorded but he could not recall the exact amount of money that was offered.

I may say that I believed Armstrong. Each of the occurrences as I have reviewed them were reported promptly by him and I feel certain they were not manufactured by him.

SHRUBB-LLOYD-FEELEY

One William Donald Lloyd resides in the City of Chatham where for many years he has carried on, apparently quite successfully, a textile manufacturing business. He was well acquainted with Mr. and Mrs. Shrubbs who also lived there prior to Shrubbs's appointment to the Anti-Gambling Branch of the Ontario Provincial Police on April 1, 1954. At one time prior to her marriage Mrs. Shrubbs was employed in Lloyd's textile plant and later as a manageress of a small hotel there owned by him and known as The Town House. For several weeks after Shrubbs's appointment to the Ontario Provincial Police he commuted back and forth between Toronto and Chatham.

Not long after his appointment Shrubbs participated in a raid on The Centre Road Club and there for the first time Shrubbs and Feeley met one another.

One day while the Shrubbs were still resident in Chatham - the exact date was not ascertained - Feeley arrived at Lloyd's office, introduced himself and enquired about Shrubbs. Feeley told Lloyd that he had a place at Cooksville and Shrubbs, to use Feeley's language, was "rapping" on his door. Lloyd likes to gamble a little and it was not long before he and

Feeley got rather chummy; so chummy, in fact, that Feeley gave him a membership card in The Centre Road Club.

Lloyd was not a very frank witness. He found himself in a rather embarrassing position as I will show in a moment. He subsequently made an appointment for Feeley to meet Shrubb knowing full well that Feeley was anxious to bribe Shrubb although Lloyd in the course of his evidence before me kept protesting that he knew Shrubb was beyond reproach. He was nevertheless willing that Feeley should have a chance to do so. The word "bribe" was apparently a nasty word to Lloyd so instead of using it he spoke of "taking a little envelope" and "dealing outside the law". Feeley, also without using that nasty word, inquired whether Lloyd thought Shrubb might be interested and told him that he was getting protection either from "higher ups" or "Queen's Park"; Lloyd could not remember which expression was used. That is a well recognized technique. Lead the person who is being "approached" to understand that there are "higher ups" who are "assisting"; it weakens resistance to the approach. While Feeley was still there Lloyd called The Town House and learned that Shrubb was not there. Feeley then left.

Shortly thereafter Lloyd saw Shrubb and said "a gentleman would like to meet you". Note how deferential he was in speaking of Feeley. He admitted that he asked Shrubb if he was "interested in dealing outside the law" but to me he insisted he was only joking. He said to him, of course still only joking, "Are you interested in taking a little envelope?"

Shrubb replied "Absolutely not".

Time went by and Feeley telephoned Lloyd on several occasions to say that he had not yet met Shrubb and was anxious to do so.

Finally Lloyd arranged for a meeting at the Seaway Hotel in Toronto for June 30, 1956. Lloyd and Feeley were there at the appointed time but Shrubb did not turn up. He went to the hotel but there was some misunderstanding in the directions given him.

Finally on August 18 Feeley telephoned Shrubb and asked if he could meet him to discuss some matters that could not be discussed on the telephone. Shrubb declined the suggestion. After two more such calls Shrubb finally agreed to meet him and, as I have elsewhere in this report stated, they did meet on August 31.

Let me here digress for the purpose of showing how and when Feeley met Mrs. Shrubb and what followed as between them.

Some time toward the end of August Lloyd was again in Toronto and met Feeley at the King Edward Hotel by appointment. From there Lloyd telephoned the Shrubb home. Shrubb was not there but Mrs. Shrubb was. This was in the afternoon. It was highly unlikely that Lloyd could have expected Shrubb to be home at that time. He invited her to come to the hotel, which she did, and there she and Feeley met. The three had some drinks in the cocktail lounge and then Lloyd left, I suppose saying to himself "Mission accomplished".

Feeley and Mrs. Shrubb got along very well together. She found him to be good company, affable, and lavish with his money. They met a number of times

and he treated her to food and drinks. He sought her companionship by telephoning her. If she could not answer the call from her house she would go to a nearby pay 'phone and return the call. Their association continued until 1958. She and her husband moved to Peterborough in January, 1959. I do not want to leave the impression that their association was constant. According to the evidence it was not. I also want to make it clear that notwithstanding his rascality there was no suggestion in the evidence of any immorality in their association.

I return now to Shrubb's meeting with Feeley on August 31, 1956:

Under date September 18, 1956, Shrubb gave Sergeant Anderson a written report concerning it. In that report he stated that Feeley opened the discussion by saying that he had been reliably informed that four new service stations were to be opened on No. 400 Highway; that he thought he might be able to get one of them and wondered if Shrubb would be interested in going into the venture with him. He referred to his own shady background and suggested that it could be made to appear that it was really Shrubb's station. Shrubb replied that he was not "overly enthused about that matter". This was the same type of approach as Feeley and McDermott made to Assistant Commissioner Bartlett on July 31, 1957, and to which occurrence I refer elsewhere in this report under the heading "The Flower Pot Story".

The discussion then veered to other matters and Feeley became quite confidential with Shrubb. Among those other matters Feeley discussed Cronin.

This is the extract from Shrubb's report concerning him:

" Cronin got to taking money from every gambler throughout the Province. He got enough money saved up and then he became careless. He had been taken aside a couple of times and cautioned about his playing the field and to play only with them" (i.e. Feeley and McDermott) "and he would be better off in the long run.....Feeley was also aware of the confidential report to the Commissioner which had been submitted by myself with respect to Cronin".

(That report was the one dated May 5, 1955, and to which I earlier referred).

There was no bribe offered to Shrubb on that occasion. Feeley was content by innuendo and suggestion to lead Shrubb to understand that he had a great deal of inside information that could only have come to him from persons in authority connected with law enforcement. I have grave doubts that Feeley then knew that Shrubb had submitted a confidential report on Cronin to Commissioner McNeill. Feeley is a shrewd and cunning operator. That was amply demonstrated during the proceedings before me. By telling Shrubb that he knew all about the confidential report on Cronin he would lead Shrubb to believe that he got that information from someone at a higher level. I think a much more likely explanation is this: He learned from Cronin that Shrubb had repulsed him; he knew that Shrubb would report that occurrence to the Commissioner, and in his talk with Shrubb he assumed that he had done so. That would lead him to the point where he could discuss Cronin and how he had profited and then got careless despite the warnings of more knowledgeable persons including Feeley. Shrubb had more brains and foresight than Cronin and would not make a mistake such as that. That was the suggestion that Feeley was

skilfully and discreetly making to Shrubb. Feeley knew that the seed had to be sown before the harvest could be reaped and sometimes the seed takes a long time to germinate. That was enough for the first day and they separated, Feeley saying that he would call him later.

Feeley called Shrubb on four subsequent dates prior to the end of the year. Then on February 2, 1957, he called him again and offered to leave an envelope containing \$1,000 in Shrubb's mail box each month, and went on to explain that by handling the matter that way detection would be well nigh impossible. Shrubb rejected the proposition. Feeley then said he was leaving for Florida and that he would send him a very attractive gift box of citrus fruit. Shrubb told him not to bother. Later a box of citrus fruit shipped from Florida did arrive at Shrubb's home. The shipper was John Smith. The box was opened before Shrubb arrived home from his office but when he discovered it he sent it to the Salvation Army.

All these matters are on record in diaries and subsequent reports made by Shrubb to Anderson and/or The Commissioner and I believed Shrubb.

SCOTT-WRIGHT-McDERMOTT

In Chapter XXV of this report I describe the investigation conducted by P.C. Scott and that eventually led to the arrest of Wright, Feeley and McDermott and I refer you to what I there say.

BALSOM-LAWRENCE-LAMORIE

Sam Balsom was a bookmaker carrying on his illegal operations as such in the City of St. Catharines. He was born in Ontario and went to the United States when he was sixteen years of age and remained there until he was about twenty-two and he was then deported to Canada because he was an alien and because of a lottery conviction. He has a criminal record including three convictions as a found-in in a common betting house and one conviction of keeping a common gaming house in 1959.

"Mickey" McGroarty was a sheet writer employed by him. McGroarty also has a criminal record. He is an unusual character. He actually attended the University in Manitoba for some period of time and in later years he was convicted of theft, breaking and entering and false pretences. He served his last term of imprisonment in 1954 and apart from his association with Balsom as a sheet writer he has apparently lived within the law since that time. In 1954 he married and has one child and apparently has great affection for his wife and child. Prior to becoming associated with Balsom he held a reasonably responsible position as a bookkeeper with a mining company at Elliot Lake but lost that position when the mine closed down. He is afflicted with diabetes and cannot readily obtain employment. He became associated with Balsom in the fall of 1958. Balsom had sufficient confidence in him to entrust him from time to time with considerable money to pay off the persons who had made winning bets.

In the fall of 1959 or the early part of 1960 Balsom informed him that protection was being afforded to a number of persons in the Niagara Peninsula who were carrying on bookmaking and he gave McGroarty a list of the names of those persons with instructions to notify them if and when he, McGroarty, received a telephone call from either Lawrence or Lamorie of an impending raid.

Lawrence and Lamorie were members of the Anti-Gambling Squad of the Ontario Provincial Police, Lawrence having joined the Force in January, 1957, and Lamorie in October of that year. Some time in the early part of 1960, according to McGroarty, Balsom gave him \$500 in a parcel which he said was to be paid to Lawrence and Lamorie and told him to await instructions from either one of them as to when and where the money should be delivered to them. According to McGroarty Lamorie later telephoned him and said there would be a 1958 green Pontiac panel truck parked outside the Garden City Cleaners in St. Catharines with the right hand window open and McGroarty was instructed to throw the parcel of money onto the front seat. He did as he was instructed. He found the truck parked near the Garden City Cleaners but also near a restaurant with reasonably large windows at the front. When he put the money into the truck he saw Lawrence and Lamorie sitting in the restaurant near the window.

In Scott's ninth report he records that on May 17th while meeting with Wright at the Earl French Club in the City of Toronto that night Lawrence came to the club and he and Wright and Scott sat in a car outside the club and an outline of the arrangements that Lamorie and Lawrence had with the bookmakers in

the Niagara Peninsula was given by Lawrence. Under that arrangement Lawrence and Lamorie were supposed to be receiving \$500 per month for "patches" which they had in the Niagara Peninsula. What gave rise to that discussion was this, according to Scott: Wright was giving the tip-offs on the gaming establishments; Lawrence and Lamorie were giving the tip-offs on the bookmaking establishments, and there was some suggestion that they should form an alliance. Lawrence and Lamorie, according to Scott, originally got their patches through Sammy Balsom. I should perhaps here interject to say that by "patches" is meant the operation of a named bookmaker who is being given protection in return for a monetary consideration.

In that same report Scott records that on May 18th he talked with Lamorie at the Ontario Provincial Police Headquarters in Toronto and each made the other aware of their respective positions in the giving of tip-offs. According to Scott Lamorie told him that the patches he and Lawrence had were Christoff at Niagara Falls who operated the front-end for the Flamingo Club, Joe Fortura at St.Catharines or Thorold, and one Petrychanko at Thorold. Balsom was supposed to be getting his protection free because it was through him that Lawrence and Lamorie had obtained their patches.

Wright was arrested on Saturday, May 28th. Early Sunday, May 29th, Commissioner Clark called Lawrence into his office and asked him if he had ever received any money from Balsom. Lawrence replied that he had not. Commissioner Clark then suspended him. Lawrence at once got in touch with Lamorie and also with Balsom by telephone and later that day Lawrence

and Lamorie consulted Mr. Humphrey at his home.

Shortly after Lawrence was suspended, according to Scott, Lawrence called him and called him a vile name and asked him if he had "blown the whistle on him".

On Monday, May 30th, Commissioner Clark called Lamorie into his office and attempted to interrogate him but Lamorie said that he had nothing to say and in his evidence before me he said that he was thereby following Mr. Humphrey's advice. On that same day Lawrence and Lamorie again saw Mr. Humphrey and they resigned from the Force. On either Monday or Tuesday Balsom got in touch with Lawrence in Mr. Humphrey's office by telephone and on the following day, June 1st, a meeting was held at Burlington between Mr. Humphrey, Lawrence, Lamorie and Balsom. On Thursday, June 2nd, Lawrence and Lamorie and their wives left Toronto by automobile to go to Ottawa. En route they stopped at Belleville and telephoned Mr. Humphrey. Lamorie apparently did the calling but in his evidence before me he could not remember why he called Mr. Humphrey. The next day, Friday, after arriving in Ottawa Lamorie again called Humphrey to inquire whether or not a warrant had been issued for their arrest.

In April, 1962, Lawrence and Lamorie met with Balsom at the Olympia Bowling Alley on Yonge Street in Toronto. Petrychanko was also at that meeting. The question naturally arises at this point why was Petrychanko at that meeting.

On May 1, 1961, Sergeant of Detectives Bryan of the St. Catharines Police Force learned through McGroarty something of the story that was later unfolded before me by McGroarty concerning the \$500. Bryan in

his evidence stated that McGroarty had confided in him because he was fearful that some harm might come to him by reason of his knowledge of the payment of the \$500.

McGroarty was subpoenaed on June 1, 1962, to give evidence before me and he immediately telephoned Balsom. The police anticipated Balsom's reaction to such a call. From June 1, 1962, to June 12, 1962, on which date both Balsom and McGroarty gave evidence before me, the police, with the co-operation of McGroarty and without the knowledge of Balsom, recorded conversations that took place between them during this period.

Balsom gave evidence first and admitted having nine conversations with McGroarty between those dates. He was asked if he had given McGroarty any advice as to how he should answer before me and stated that he told him - (I now quote from his evidence)

"You just tell them anything you want to tell, the truth, or you can tell them anything. I cannot stop you from telling anything'. That is all I can remember."

Let us contrast that evidence with the evidence of the conversations as recorded which I summarize as follows:

Balsom tried to persuade McGroarty to say that he did not work for him and as this was not successful he then suggested that McGroarty say that he worked for him a little. I quote the conversation at this point:

McGroarty: "That's perjury, though, isn't it?"

Balsom: "Bribery's worse".

Balsom actually admitted in evidence having made that reply to McGroarty. Balsom had earlier in these

conversations been told by McGroarty that the police knew about the payment of money to Lawrence and Lamorie and Balsom's reply was that if they did both he and McGroarty would have earlier been arrested. He tried to assure McGroarty that the police could not have that knowledge and kept telling him that Lawrence and Lamorie had already denied it and he was going to deny it and all McGroarty had to do was also deny it and nothing could happen to either of them as the police did not have the money. He pointed out that if McGroarty did say anything all he was going to do was to get him (Balsom) "a trial".

Lawrence and Lamorie gave evidence before Balsom was called and denied any knowledge of money having been put into any truck by McGroarty. Balsom, when he was called, also denied paying or causing to be paid any money to them. Balsom was then required to step down and McGroarty's evidence was taken and the transcription of the tape recordings placed in evidence. Then Balsom was recalled and admitted giving the money to McGroarty with instructions to put it in the truck but stated that it was a truck that he was using at the time and that he recovered the money from the truck later. Asked to explain why all this was done he stated that he was thereby trying to impress upon McGroarty that he, Balsom, was a "big fixer", thereby enhancing, so Balsom thought, McGroarty's impression of him.

The evidence is clear that about this time Lawrence and Lamorie were in fact in the course of their duties using a panel truck similar in description to the one into which McGroarty threw the money.

I recommend that all the evidence given before me concerning the whole story be turned over to The

Attorney General with a view to such criminal proceedings being taken as The Attorney General may think the evidence justifies.

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P A R T

N I N E

CHAPTER XXIV

THE BRAMPTON EPISODE

In the early hours of November 24, 1954, a raid was conducted by officers of the Ontario Provincial Police at the Centre Road premises. Sergeant Anderson was in charge of the raid and under him were Corporal Shrubbs, P.C. Armstrong, P.C. Wright and P.C. Scott. Thirty-four persons, among them McDermott and Feeley, were arrested as found-ins and removed to the Peel County Court Building at Brampton where they were detained pending an examination under oath of certain of them pursuant to what is now Section 174 of The Criminal Code. Commencing about 9:30 o'clock that morning seven of them, selected by Sergeant Anderson, were examined under oath by Crown Attorney Davis before Magistrate Blain. Those seven persons were chosen by Sergeant Anderson because he felt that out of the thirty-four persons arrested they were the only persons whose evidence might be reliable. He knew the other twenty-eight or most of them to be professional gamblers and habitués of this and similar places and he had no confidence that they would admit, if it were a fact, that this place was a common gaming house. The evidence of the seven persons examined disclosed nothing of value to the Crown. They each swore that they had not engaged in any unlawful gambling, nor had they observed anyone else doing so. As a result all the arrested persons were discharged.

Mr. Wintermeyer in his speech (p. 105) said this:

"During these proceedings, Mr. Speaker, Mr. Davis received a message to call The Attorney General's office. He did so and was instructed to discontinue the examination immediately".

For a complete understanding of what took place in the proceedings before Magistrate Blain I quote from the evidence of Sergeant Anderson given before me:

"Q. Well, after the examination was completed before the magistrate in your view was there any evidence which would warrant any prosecution of any person who had been arrested?

A. No sir.

Q. Well then, the examination of those eight persons was completed in the courtroom. I take it that was the end of the matter as far as you were concerned?

A. Yes sir".

Without quoting from it the evidence of P.C. Shrubbs given before me was to like effect. Under date November 24 Sergeant Anderson made the following entry in his police diary:

"2.00 A.M. on duty with Corporal Shrubbs, Const. Armstrong, Wright, Scott to Toronto Twsp. - approx. 3.15 A.M. execute search order Army Navy Air Force Veterans in Canada Club, Unit #326 - 34 men arrested - removed to Brampton County Bldgs - Approx. 9.00 A.M. ~~seven-m-~~ 8 men appeared before His Worship Magistrate Blain - re Prov. Sect. 2642 C.C. - 810.00 seized claimed ~~to~~ by G. Reid - receipt obtained - Return to office - off duty 1.00 p.m."

The entry made by Corporal Shrubbs in his police diary under date November 24 is as follows:

"2.00/A.M. - 1.00/P.M. Anderson, Armstrong, Wright, Scott and self executed search order at Branch 326 A.N. & A.F. Vets Club Cooksville. Entered approx. 3.15 A.M. 34 persons detained for investigation and conveyed to Peel County Court Bldgs. Brampton. Invest conducted under provisions of Sec. 642 C.C. Crown Attorney Davis, Mag. Blaine & S. Grebirtig & Herman for all accused. 8 persons questioned on oath, nil results. All persons released. Returned to Toronto".

Corporal Shrubbs's diary was entered as Exhibit 14 in the proceedings before me.

Neither the Attorney General nor anyone in his Department knew anything about that occurrence until it was all over and the arrested found-ins

had been released.

McDermott was furious over the procedure that had been adopted by the police and Mr. Gebirtig, his solicitor, according to newspaper accounts of the episode referred to that procedure as "Gestapo" procedure notwithstanding that it is authorized by Section 174 of The Criminal Code. Even though it is so authorized it is only adopted in extreme situations. The public generally were not familiar with it; neither were members of the Press because when they heard of the occurrence some newspaper reporters got in touch with The Attorney General's Department to inquire about it and the Toronto Press published an account of the incident with glaring headlines. Someone got in touch with Mr. Thomas Kennedy who was the local member in the Legislature and he in turn telephoned The Attorney General to inquire about it. The Attorney General at that time was the Honourable Dana Porter, presently Chief Justice of Ontario. He caused inquiries to be made from Crown Attorney Davis and was told that the proceedings had ended and the found-ins had been released.

Chronologically the next thing that occurred relating to it was on May 23, 1958, during the course of one of several telephone conversations Feeley had with Shrubbs in which he was urging that the Anti-Gambling Squad should raid The Ramsay Club. Among other matters that Feeley mentioned in that connection was that the same procedure should be adopted as had been followed in connection with The Centre Road Club back in 1954. He said if that were done there would be no repercussions and he could promise that The

Attorney General would not take "a dim view of it" as he had done before and would not again roar down on the police.

Chief Justice Porter gave evidence before me and it is clear from his evidence that the whole affair had not impressed itself on his mind as it would have if he had taken "a dim view of it" or "had roared down" on the police about it. To begin with there would be no occasion for "roaring down" on anybody. The police had acted quite legally.

The next thing that happened relating to the episode was this:

In 1960 after the arrest of Wright, Feeley and McDermott on conspiracy charges Chief Inspector Graham requested Shrubb who, by that time, had resigned from the Ontario Provincial Police Force and joined the Police Force of Peterborough, to prepare some material that might be of assistance to officers investigating the charges against the three accused or to counsel prosecuting those charges. In compliance with that request Shrubb prepared a memorandum which he entitled

"Notations as entered in daily diary period
April 1st, 1954 through December 31st, 1958".

In it he wrote the following with reference to the Brampton episode:

"Raid at Cooksville Club, Unit 326, all persons taken to Brampton Gaol. 8 examined under Sec. 642. Message left with Crown Attorney Davis this date, for him to call A.G.'s office, part way through the proceedings. Advised to discontinue proceedings forthwith. This procedure annoyed Mr. Davis".

Under date April 21, 1961, Sergeant Anderson made a report to Chief Inspector Graham pursuant to a request similar to the one made by Graham to Shrubb. In it he wrote:

" In November, 1954 all persons on the premises were arrested following the execution of a Warrant, and removed to Brampton County Gaol. Seven persons were questioned under the provisions of Section 642 C.C. (Old Code), before His Worship Magistrate R. Blain. No charges were preferred. All persons were released after Crown Attorney Davis received a telephone call from the Office of the Attorney-General instructing him to discontinue these proceedings immediately".

Both Anderson and Shrubb in their evidence given before me testified that after the examination of the eight persons had been concluded and before they had been released Crown Attorney Davis was told by his secretary that someone from The Attorney General's Department called him; that he (Davis) went from the courtroom to his office and later emerged and stated that he had just been instructed by someone in The Attorney General's Department to discontinue the proceedings.

Mr. Davis gave evidence before me and emphatically denied that he had been instructed by anyone in The Attorney General's office to discontinue the proceedings or that he told either Anderson or Shrubb that he had. I accepted Mr. Davis' evidence without any hesitation. There was unquestionably a telephone call from Mr. Common who at that time was Director of Public Prosecutions in The Attorney General's Department to Mr. Davis that day but on the evidence of Mr. Davis it had nothing to do with the examination of the witnesses that he conducted that day, nor did it relate in any way to the raid. Two letters were introduced in evidence before me that explain the telephone call and fix the date of it. The first is a letter dated November 23, 1954, from Mr. Davis to Mr. Common concerning a pending prosecution against an accused who was charged with theft and had been committed for

trial. Counsel for the accused desired the evidence of a witness who was in Buffalo and had applied to the County Judge at Brampton for an Order to have his evidence taken on commission. The second is Mr. Common's reply. It is dated November 24 and is as follows:

"Dear Mr. Davis,

I have your letter of November 23rd and confirming my telephone conversation with you, I understand that you are prepared to attend at the City of Buffalo, New York, to represent the prosecution upon the hearing before the Commissioner.

Yours faithfully,
W.B. COMMON,
Director of Public Prosecutions"

Both Shrubb and Anderson in my opinion are very honourable men and the conflict between the entries in their diaries under date November 24, 1954, and their reports to Chief Inspector Graham in 1960 I think can be reconciled in this way: Between November 24, 1954, and the date when P.C. Shrubb resigned from the Ontario Provincial Police Force these two dedicated officers had been frustrated almost to the point of despair in their efforts to put The Centre Road Club and the other clubs like it out of business. They knew that somewhere along the line information was being "leaked" to the operators of those clubs. Lawyers representing the clubs had protested to The Attorney General's Department many times with respect to the activities of the police in relation to those clubs. Meetings had been held with The Attorney General or those in his Department and the police had been told that, keen as they were to put these places out of business, they had to nevertheless act within the law. As a result of all this I think it is fair to say that these two officers and other members of the Force, who were equally keen and

dedicated, assessed with an understandably suspicious attitude any restraint put upon them and looking back honestly believed that there was something sinister about the telephone call from The Attorney General's Department to Crown Attorney Davis. The examination of all the witnesses had been completed by the time the telephone message was received by Mr. Davis and that being so it is rather silly to suggest that following the telephone conversation Crown Attorney Davis returned to the courtroom and said that he had been instructed to discontinue proceedings that had already ended. That part of Shrubb's and Anderson's report to Inspector Graham I think surely was the product of their imaginations.

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CHAPTER XXV

THE SCOTT INVESTIGATION

Earlier in this report I made a brief reference to this investigation and now I give you the important details of it.

P.C. Wright had been a member of the Anti-Gambling Branch of the Ontario Provincial Police for a considerable time and was removed from that branch late in December, 1959, and transferred to Belleville.

P.C. Scott continued as a member of that branch.

On February 5, 1960, P.C. Wright came to the City of Toronto and made a proposal to P.C. Scott the substance of which was that if Scott would inform Wright of the times when the clubs would be raided he would pass the information on to the operators and for that service the operators would pay him and Scott a substantial money consideration, approximately \$200. each per month. Scott stated that he would consider the matter and it was arranged that they would meet again the following day. They did and Scott stated that he wanted further time to consider it.

On February 8 Scott reported the matter to Sergeant Anderson and he and Assistant Commissioner Kennedy conferred with Commissioner Clark. Commissioner Clark in his evidence before me stated as follows:

"A. On that date, Assistant-Commissioner Kennedy, Staff-Sergeant Anderson, came into my office and informed me that Anderson had been informed by Scott, that he, Scott, had been approached by a former member of the Anti-Gambling Squad with a suggestion that he, Scott, supply Wright with information concerning the activities of the Branch for monetary gain.

.....
I instructed the Assistant-Commissioner, in the presence of Sergeant Anderson, to advise Scott to fall in line with the suggestion of Wright in an undercover capacity."

Pursuant to those instructions Scott did "fall in line" with Wright's suggestion and carried out this undercover investigation up until May 27, 1960. I shall have something to say later herein as to the legality of the procedure at that time authorized by Commissioner Clark.

As a result of that investigation Wright was arrested on May 28th by Inspector Graham of the Ontario Provincial Police and charged that during the months of February, March and April, 1960, he unlawfully did, being a police officer, obtain money for himself with intent to interfere with the administration of justice contrary to The Criminal Code (the relevant section of The Criminal Code is Section 101 (a)).

As the investigation proceeded Scott submitted ten written reports to Commissioner Clark under dates following:

- The first report February 11
- The second report February 18
- The third report March 2
- The fourth report March 16
- The fifth report April 2
- The sixth report April 4
- The seventh report May 1
- The eighth report May 9
- The ninth report May 23
- The tenth report May 27.

On February 13 Wright met Scott in Toronto and on that date he agreed with Wright "to go along with him" and on that date also Wright informed Scott that he had already received \$400 as compensation for the information that was to be passed on to the operators

of the clubs. On February 29 Wright paid Scott \$400, Scott in the meantime having made it appear to Wright that he was sincere in his co-operation with him. From time to time between February 13 and February 29 Scott had advised Wright on certain dates that I need not set out herein that there either would or would not be raids on one or other of The Centre Road Club or The Ramsay Club.

The first knowledge that Commissioner Clark had of the payment of the \$400 to Scott was on the receipt of the third report dated March 2nd.

It was not until March 3rd that The Attorney General or anyone in his Department knew anything about this investigation. On that date Commissioner Clark attended at the offices of The Attorney General and informed Mr. Common, the Deputy Attorney General, that this investigation was under way and that \$400 had been paid by Wright to Scott. Mr. Common in his evidence said that the whole matter was discussed thoroughly with the Commissioner and he instructed the Commissioner to carry on this undercover investigation and report to him from time to time as events transpired. He then took the Commissioner in to see The Attorney General and the Commissioner related to The Attorney General what he had previously told Mr. Common and The Attorney General confirmed the instructions that Mr. Common had given the Commissioner, namely, to have the investigation proceed.

Further payments were made by Wright to Scott on the dates and in the amounts following:
March 11, \$11 (this was to cover some disbursements made by Scott); April 1, \$202 (\$2 of this was for disbursements); April 27, \$400.

The total of all the payments by Wright to Scott therefore was \$1013.

According to Commissioner Clark as reports were received by him he communicated the substance of them generally to Mr. Common but the reports themselves remained in the possession of Commissioner Clark. On April 26, 1960, the Commissioner and Mr. Common discussed the matter with The Attorney General and he was brought up to date with respect to what was going on.

Up until April 27th Scott was advising Wright with respect to impending raids and on that date Wright gave Scott a telephone number which turned out to be the number of the telephone in McDermott's residence and thereafter Scott gave the tip-offs of impending raids or information that there would be none either direct to McDermott or to Wright.

On May 11, 1960, there was a conference between The Attorney General, the Deputy Attorney General, Mr. Common, and Commissioner Clark in The Attorney General's office at which the situation as of that date was discussed between them. The Attorney General took the position that Commissioner Clark's oath of office would not permit him to be a party to this investigation any longer. The Deputy Attorney General took a similar position, but Commissioner Clark requested that The Attorney General permit him to allow the investigation to proceed until the end of the month and The Attorney General acceded to that request. It was decided, however, on that date that Wright would be arrested irrespective of what might transpire between then and the end of the month. On May 21st Commissioner

Clark briefed Inspector Graham of the Criminal Investigation Branch of the Ontario Provincial Police and informed him that he would later lay a charge, obtain a warrant and arrest Wright.

On May 23 Scott submitted his ninth report which covered events that had occurred between May 11th and May 20th. He concluded that report with this statement:

"At this point of the investigation I have arrived at a time when I am actually counselling Lawrence and Lamorie in their methods of taking bribes. I feel that I am lending myself to further incrimination of these 2 men to say nothing of P.C. Wright and for this reason I feel that I should, with all due respect, be advised as to whether or not Criminal charges are to be preferred".

Of course as of May 23rd Scott did not know that the decision had already been made to arrest Wright.

I think I have now given you in chronological order sufficient of the events that occurred from the beginning of this investigation to the end to pose a question and having posed it later to attempt to answer it.

When Wright first made his proposal to Scott Wright was not in a position to give information to the operators of these gambling clubs with respect to impending raids and therefore not in a position where he could expect to receive any bribes from them. He had to obtain the co-operation of Scott. Scott's duty as a member of the Force was to repress as far as he possibly could the gambling activities which he and the other members of the Force were reasonably sure

were being carried on in these clubs. The simple question is this: Was Scott legally justified in acceding to Wright's proposal which involved giving tip-offs to Wright which could be passed on to the operators of the clubs and in consideration for which Wright and Scott would share the bribes to be paid for that service?

If the Commissioner by instructing Scott to "fall in line" with Wright's proposal thereby meant that he should convey to Wright accurate information of impending raids then I must say that in my opinion he ought not to have so instructed him. It would be one thing to pretend to be giving accurate information and thereby mislead Wright and the operators: It would be another matter to keep Wright and through him the operators accurately informed as to impending raids and to thereby co-operate with them.

By February 13th Wright had in his possession \$400 but he did not turn it over to Scott then but told Scott that he would hold the money for some time to enable Scott to "prove himself". Scott did prove himself by giving accurate information during the whole course of his investigation not only as to when raids were about to take place but as to the times when there would be no raids: He was not merely pretending.

There will be confusion in our thinking if we fail to keep in mind that involved in Wright's proposal there were two crimes, one the bribery of Scott and the other the unlawful activities of the operators in the clubs.

Scott did not invite the bribery. That proposal came to him from Wright. As between them

Wright instigated it but in my opinion it was wholly wrong for the police to agree, - and indeed carry out their agreement, - to participate in the other offence, namely, the unlawful gaming, to the extent of withdrawing all restraint upon it as a condition to the payment of the bribes. Actually Scott was aiding and abetting those operators by removing virtually all possibility of detection.

In Regina versus Mullins, 3 Cox's Criminal Cases, 526, at page 531 this is said:

"The Government are no doubt justified in employing spies and I do not see that a person so employed deserves to be blamed if he instigates offences no further than by pretending to concur with the perpetrators".

Such a person was held not to be an accomplice if he did not exceed the limitation therein set out and it is implicit in that decision that if he does exceed that limitation - in other words becomes a party to the offence - by co-operating as distinguished from merely concurring with the perpetrators he puts himself in the position of an accomplice.

The principle enunciated in that case can be otherwise stated thus, namely, the police cannot break the law in order to enforce it. That is still a valid principle in English jurisprudence and perhaps the most recent pronouncement by judicial authority is contained in Brannan versus Peek, (1948) 1 King's Bench Division, 68. Lord Goddard, Chief Justice, with whom Mr. Justice Humphreys and Mr. Justice Singleton agreed, says at page 72:

"It cannot be too strongly emphasized that unless an act of Parliament provides that for the purpose of detecting offences police officers or others may be sent into premises to commit offences therein, - and I do not think any act does so provide, - it is wholly wrong to allow a practice of that sort to take place. I am not commenting here so much on the conduct of the police officer because obviously he must have been obeying the orders of his superiors. If the police authorities have reason to believe that offences are being committed in public houses it is right that they should cause watch to be kept by detective officers but it is not right that they should instruct, allow or permit a detective officer or constable in plain clothes to commit an offence so that they can say that another person in that house committed an offence.....I hope the day is far distant when it will become common practice in this country for police officers who are sent into premises for the purpose of detecting crime to be told to commit an offence themselves for the purpose of getting evidence against another person".

Section 21 (1) of The Criminal Code provides that

"Everyone is a party to an offence who

- (a) actually commits it,
- (b) does or omits to do anything for the purpose of aiding any person to commit it, or
- (c) abets any person in committing it.

Certainly, Scott, by keeping the operators of these clubs posted as to when raids would or would not take place, was aiding and abetting them and became a party to their offence of keeping a common gaming house.

Now, applying the law as laid down in Regina versus Mullins and Brannan versus Peek it was wrong for Scott to become a party to that offence for the purpose of (a) inducing the payment as distinguished from the offering of bribes and/or (b) obtaining evidence against the operators of those clubs of keeping a common gaming house.

I am thoroughly satisfied that Commissioner Clark and the Deputy Attorney General quite unwittingly fell into the error of approving Scott's "falling in line" with Wright's proposal and that the implications involved in what Wright proposed were not borne home to them. Commissioner Clark and other officers of the Ontario Provincial Police were suspicious of Wright; that he was "leaking" information to the operators of these clubs. That is why he was removed from the Anti-Gambling Squad. It was thought that Wright's proposal would entrap him. Not only would it entrap him but it would also entrap the operators of these clubs. That is why the Commissioner and those in The Attorney General's Department agreed that Scott should "fall in line" with Wright's proposal. It was their zeal in attempting to put these clubs out of business that motivated them in instructing Scott to "fall in line" with Wright's proposal. Such zeal is inconsistent with the suggestion made elsewhere that The Attorney General was content to leave the clubs alone, that they were doing no harm.

Mr. Wintermeyer in his speech stated that The Attorney General halted the investigation. Unquestionably he did but Mr. Wintermeyer said The Attorney General had done so notwithstanding that the police wanted to continue it. As I earlier pointed out herein it had been agreed on May 11th that the investigation would continue till the end of the month, The Attorney General having acceded to Commissioner Clark's suggestion that it should. Certainly Scott made it plain in his ninth report which was submitted on May 23rd that he was not anxious

to continue; he thought he had gone far enough. In my opinion he had gone too far. The plan should never have been approved if it involved, as it apparently did, the giving of accurate information as to when raids would and would not take place.

I now propose to take all the reports submitted by Scott and pick out therefrom every item therein referable to the second term of reference and as I do so I shall refer to the evidence, if any, relating to those entries.

In the third report there is this entry for February 29th:

" We touched briefly on the hearings at Queen's Park with regard to the attempted cancellation of the Provincial Charter held by the Vet's Club, at Cooksville. P.C. Wright said that he understood the 'fix' was on at Queen's Park and that the charter would be retained. He said that the charter was due to be cancelled but someone in the Department of the Attorney General had blocked the proceedings."

There is not a tittle of evidence to support the statement that there was any fix at Queen's Park. The charter was not retained but in fact was cancelled. The evidence on the hearing with respect to the cancellation of the charter was completed on February 17th and on February 29th, the very date upon which Wright made that statement to Scott, the argument was presented to the Deputy Provincial Secretary who had presided at the hearing.

In the seventh report there is this entry for April 19th:

"P.C. Wright stated that he had heard that the Vet's Club would retain their charter on condition that they get rid of one vicious dog and remove a bolt from some door at the club, this information coming from Queen's Park".

There was not a tittle of evidence that any such information came from anyone at Queen's Park. After the hearings had been completed Mr. Herman had got in touch with the Deputy Provincial Secretary and said that if The Provincial Secretary would refrain from cancelling the charter the club would remove the bolts and bars and fix up its membership list. That appeal by Mr. Herman was rejected.

There is nothing in the eighth report relating to this term of reference.

In the ninth report there is this entry for May 13th:

"Bill Common was receiving a lot of money from the gamblers. (When I expressed doubt in this regard the party.." (McDermott) "...said well you just go to COMMON and put a question to him and I will tell you what you asked, the next day; further, who was it that stopped you from using hammers on the door at Cooksville and why was it that the Attorney General's Department stopped you from using that Section of the Criminal Code which empowered the Police to take persons found in an alleged Disorderly House before a Justice of the Peace and have them examined under oath.)"

And under date May 17th appears this entry:

"Bill Common is receiving \$800.00 per month from the 'thieves'."

There is not a tittle of evidence that any money was ever offered to or received by Mr. Common and that statement by McDermott was a vicious falsehood. Mr. Common gave evidence before me and vigorously denied that statement made concerning him and all counsel appearing before me agreed that there was no evidence to support it.

I may say that as a member of the Bench of this Province I have known Mr. Common for more than twenty-five years and he enjoys among his fellow lawyers and the members of the Bench the highest reputation for integrity and honesty and to me it is simply unthinkable that he could be debauched by anyone. On more occasions than I could even estimate he has appeared before me always on behalf of the Crown and protected the rights and interests of the Crown diligently and always honourably. The reference in that entry to the use of hammers on the door of The Centre Road Club relates to an occasion when the police did break down the door when they were seeking entry under the authority of a search warrant. Mr. Herman, on behalf of the club and on instructions from McDermott and/or Feeley, protested to The Attorney General's Department with respect to that conduct. The police are not entitled to use unnecessary violence in gaining entry to any premises under the authority of a search warrant and I have no doubt that Mr. Common agreed with Mr. Herman's submission in that respect. One does not need to be a crystal gazer to reach the conclusion that Mr. Herman reported to Mr. McDermott the result of his protest and it is to that that McDermott was referring when he made the statement recorded by Scott in his entry under date May 13th. The reference to the section of The Criminal Code which empowers officers to arrest found-ins in a disorderly house and take them before a Justice of the Peace to be examined refers to Section 174 of The Criminal Code and it was the procedure thereby authorized that had been followed by the police on November 24, 1954, and

to which I have referred elsewhere in this report under the heading The Brampton Episode. As I have there stated no one in The Attorney General's Department stopped the police from adopting the procedure authorized by that section.

I have elsewhere stated that both McDermott and Feeley are public menaces and the statement made by McDermott as recorded in the entry for May 13th affords just another example of the type of character he is, an audacious liar who will stop at nothing to advance his own cause. The pity of it all is that anyone would rely on such a statement made by him.

Mr. Wintermeyer in his speech stated inferentially that certain vital evidence had not been introduced on the trial of Wright, Feeley and McDermott. The conduct of that trial was left to Mr. Gordon Ford, Q.C., who had been appointed special counsel to the Crown. He gave evidence before me and stated that the decision as to what evidence would or would not be submitted as part of the Crown's case was his decision and his alone. The evidence that Mr. Wintermeyer referred to as not having been presented as part of the Crown's case was known to Mr. Ford because he had before him a copy of the Scott Reports but he considered those items irrelevant and inadmissible. If Wright or McDermott had gone into the witness box then each one of them could have been confronted with what he was reported to have said to Scott but in my opinion it would have been improper to introduce those statements as part of the Crown's case.

I now go back through the Scott Reports and pick out therefrom any other entries with respect to

the payment of money.

In the eighth report for the date May 3rd this entry appears:

"Don Scott (Assistant to Crown Attorney T. Forrestell) is a pal of ours. I would like to get him in as Crown at Niagara Falls because Forrestell has got everyone up in arms about the club in Niagara Falls".

Don Scott gave evidence before me and he was never a pal of McDermott nor anyone associated with him. The audacity of McDermott in making that statement is staggering. To read it one would think that he had the capacity to have a Crown Attorney appointed to that office. In that report under date May 8th Scott records that Wright told him this:

"Don Scott and a member of Parliament in the Peninsula had received money to take pressure off the club in the Peninsula".

Don Scott in his evidence denied that any money had ever been paid to him. The member of Parliament was not identified by Wright and there was no evidence before me that any money had ever been paid to any member of Parliament. All the evidence before me showed that the police did not at any time ease up on the pressure being brought by them on any club in the Niagara Peninsula. If the club there referred to in that entry was The Frontier Club then all I need do is to refer you to the frantic efforts that were being made by McDermott and Humphrey in 1958 to have the pressure by the police on that club removed.

There are other entries in the Scott Reports with which I have dealt under the heading Balsom, Lawrence and Lamorie.

CHAPTER XXVI

THE TISDALE CLUB PROSECUTION

In Chapter XX of this report in which I dealt with The Tisdale Club I pointed out that the so-called branch of that club at Peterborough was closed following the conviction of Horton and others on January 17, 1957.

By reason of a suggestion that there was some improper interference by The Attorney General's Department in that trial and its final termination and by reason also of some references to it in certain reports by Shrubbs it now becomes necessary that I review the history of that trial and what preceded it.

On November 5, 1955, Horton, Harrington, Fleetwood and O'Brien were charged with keeping a common gaming house on the club premises and twenty-eight found-ins charged as such.

They appeared for trial before Magistrate Philp on December 15, 1955, and were represented by Mr. Humphrey and Mr. Gebirtig as counsel. The trial was adjourned to January 18 and again adjourned on that date to February 8, 1956. On that date the evidence was taken and the Magistrate reserved his decision and asked counsel to submit a written argument, which they did, and on March 21 he gave judgment convicting the four keepers. He sentenced Horton and Harrington to a term of four months imprisonment and imposed a fine of \$200 and costs on both Fleetwood and O'Brien.

On April 3 they served notice of appeal against their convictions. Their appeals were heard by the Court of Appeal on June 19, 1956, and the trial was declared a nullity on the ground that each of the

accused had been charged separately but they had all been tried together.

On July 18, 1956, the charges were re-laid and the accused appeared for trial on October 10 before Magistrate Bartrem and were again represented by Mr. Humphrey and Mr. Gebirtig. It was proper that Magistrate Philp should not preside at that trial because if he did he might be affected by the evidence that he had heard at the first trial. That is why The Attorney General's Department asked Magistrate Bartrem to preside.

When the accused came on for trial before him it was suggested that, instead of all the evidence being given over again, to save time and expense he should take a transcript of the evidence given at the first trial and use it in arriving at his decision. Of course it would have been wrong to adopt that procedure. Nevertheless, a transcript of that evidence was handed to him, and to give him time to read it the trial was adjourned to November 9. He read that transcript before he realized the error in adopting that procedure. The Attorney General's Department was then consulted and it was arranged that Magistrate Hopkins would preside at the new trial.

The accused appeared for trial before him on November 28 still represented by Mr. Humphrey and Mr. Gebirtig. They objected to him presiding on the ground that Magistrate Bartrem was seized of the case. Of course that was utter nonsense. If Magistrate Bartrem had proceeded to try the case and had convicted the accused I have no doubt they would have appealed at once and the appeal would have been allowed on the ground that he had disqualified himself. Nevertheless, Mr. Humphrey and Mr. Gebirtig refused to go on with the

trial before Magistrate Hopkins and retired saying that they proposed to move for an Order of Prohibition restraining him from trying the case. To enable them to do so the trial was again adjourned.

No application was in fact made for an Order of Prohibition.

The accused keepers changed lawyers and on January 17, 1957, they appeared for trial before Magistrate Hopkins at which time they were represented by Mr. Arthur Maloney, Q.C., and entered a plea of guilty.

Magistrate Hopkins imposed on Harrington a fine of \$800 and on Horton a fine of \$600 and on O'Brien and Fleetwood each a fine of \$200 and on each of the found-ins a fine of \$20. The money seized at the time of the raid amounting to \$1423 was ordered confiscated.

During the proceedings before me it was suggested that there was something sinister in the fact that while Magistrate Philp had sentenced Horton and Harrington to a jail term Magistrate Hopkins had only fined them, albeit it was a substantial fine, and to give colour to the suggestion reference was made to certain reports given by Shrubb to Anderson concerning his talks with Feeley in August and September, 1956, and to another report given by Shrubb to Anderson of a talk he had with the Crown Attorney at Peterborough, Mr. Bradshaw.

The references made by Feeley to this case as noted in Shrubb's reports to Anderson are as follows:

August 31, 1956 - "The boys became careless and let an officer in. Horton was not a bad fellow. His attitude upon conviction. The raid by myself at his home. The disgrace to Horton's family after arrested".

September 12 - "...a guilty plea was going to be entered on October 10, 1956, before Magistrate F. Bartrem and that a small fine was to be imposed, no gaol terms. There would be no confiscation of the seized money. All of this has been arranged and he said 'You know these things happen'".

Feeley got the information that Magistrate Bartrem would be presiding not from The Attorney General's Department but through Mr. Humphrey. When Magistrate Bartrem who is stationed in the Metropolitan area was requested by the Attorney General to go to Peterborough to try the accused a date had to be fixed by the Magistrate and Mr. Humphrey was notified of that date.

I draw your attention to the fact that what Feeley told Shrubbs would happen did not happen. A fine, not a small one but a comparatively large one, was imposed; the seized money was confiscated.

This is a first-class example of Feeley's technique, - and McDermott's too, - of suggesting that he and those associated with him had some inside track to persons in authority.

In a report by Shrubbs to Anderson dated January 17, 1957, Shrubbs stated that he and Police Constable Moore had been in Peterborough and had talked with Mr. Bradshaw, the Crown Attorney, who told them that he had discussed the coming trial with Mr. Common of The Attorney General's Department and that in the course of those discussions

(1) he and Mr. Common had discussed the advisability of examining one of the found-ins under Section 174 of The Criminal Code.

If that section was discussed it could not have been in relation to the coming trial because it would have nothing to do with the trial. The procedure thereby authorized is available only at the time of a raid on a disorderly house and is used in order to get evidence on which to base a charge. Here the accused had already been charged and in fact tried once. If it was discussed at all I should think it could only have been by way of Mr. Common pointing out to Mr. Bradshaw that the procedure thereby authorized is available to the police at the time of a raid.

(2) Mr. Common told Mr. Bradshaw that Mr. Gebirtig had been threatening to apply for an Order of Prohibition but he had talked him out of it "as it was not good politics". I entirely agree that it would be "good politics" to talk him out of it if he could but I use those words not in any sinister sense but in the sense that it was practical wisdom to do so if he could. There was not the slightest chance of Mr. Gebirtig succeeding if he had applied for an Order of Prohibition but it would delay the proceedings if he did apply. They had already dragged out too long and Mr. Common was trying to avoid further delay.

(3) Mr. Common suggested that if the Crown would not press for a jail sentence that might bring about a "guilty" plea.

There was nothing improper in that suggestion. More than a year had gone by since the accused were first charged. The Crown's case in a criminal prosecution does not improve with age. Witnesses' recollections become obscure; at least counsel for the accused will submit that they have. The case had given Magistrate

Philp such concern that he had required time to consider it and had called for a written argument.

Shrubb in his report to Anderson stated that Mr. Bradshaw then asked him and Moore what their views were as to a jail sentence and that they had replied that they thought there should be.

At that point in Shrubb's report he put this in brackets:

"(Thus proving the information passed on by V. Feeley was in part the truth)".

It is clear to me that when Shrubb put that statement in his report he suspected that there was some plot being hatched to let the accused off easily. The seed that Feeley had sown in Shrubb's mind when he said "You know these things happen" was beginning to germinate.

This trial having taken place more than five years ago it is not surprising that neither Mr. Bradshaw nor Mr. Common have any recollection of any telephone conversations between them concerning it.

Mr. Bradshaw, although having no recollection of any such telephone calls, stated that never in the fourteen years that he has been Crown Attorney was there ever any interference with him by anyone in the Attorney General's Department.

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CHAPTER XXVII

POLICY OF THE ATTORNEY GENERAL'S DEPARTMENT
IN REGARD TO PINBALL PROSECUTIONS

In the course of the proceedings before me certain members of the Ontario Provincial Police stated that they considered the policy of The Attorney General's Department in matters pertaining to pinball prosecutions had amounted to interference with them in carrying out their duties under the law.

The problem arose from what would appear to have been an unintended change in The Criminal Code and possibly from a failure on the part of the officials in The Attorney General's Department to explain fully to the Ontario Provincial Police the reasons for the policy.

Prior to 1954 prosecutions in respect of pinball or slot machines thought to be illegal were based on Section 986 (4) of The Criminal Code. The decisions as exemplified by Rex v. Levine, 1939, 72 C.C. 312 (Robertson C.J.O.) and Laphkas v. The King, 1942, 77 C.C.C. 142, held that games of mixed skill and chance involving a prize in the form of a free game where the machine was not patently designed for gaming did not offend the Code.

In the course of the revision of The Criminal Code Section 986 (4) became Section 170 of The Criminal Code, 1953-1954, Ch. 51. While the new section involved a re-arrangement of the wording of the old section it is clear from the report of the Commissioners who recommended the changes in the Code and from the statement of the then Minister of Justice, Mr. Garson, in the

House that no substantive change in the law at the time of the enactment of the new section was intended.

In their report the Commissioners said:

"Your Commissioners have considered gaming sections of the Code. While we are of the opinion that these sections contain certain inconsistencies and anomalies we have suggested no substantive changes because of the controversial nature of the matters involved".

When the new Code was introduced in Parliament the then Minister of Justice said that there was no change but only a mere re-arrangement of language. (1954 Hansard, page 2411).

The Senate Committee, dealing with the same Section, indicated that it was changed in form only. (Proceedings of the Senate Standing Committee on Banking and Commerce June 10th, 1952, page 21).

The Attorney General's Department, however, interpreted the new Section to mean that the mere receiving of a free game constituted an offence. The then Deputy Attorney General, Mr. Magone, in September, 1956, directed that the distributors and lessees of such machines be warned of the effect of the change in the law but no charges were to be laid unless there was actual gaming resulting.

In October, 1956, the Supreme Court of Canada in *Isseman vs. The King*, 1956, 24 C.R. 347, decided that, notwithstanding what was said to have been the intent of Parliament, on the plain wording of the Code these games involving chance or mixed chance and skill were illegal even though the only prize was a free game.

As a result of the *Isseman* case the then Attorney General asked the Minister of Justice to have the section amended to restore the position existing

prior to its enactment. The Minister of Justice wrote to all the Provincial Attorneys General about the Ontario suggestion and as not all the other Provinces were in agreement with Ontario nothing was done.

Eight of the Provinces, including Ontario, had enacted slot machine legislation. This type of legislation was held to be ultra vires by the Supreme Court of Canada. Ontario accordingly found itself in a position where it could not constitutionally cure the error.

In the fall of 1959 the Ontario Provincial Police asked The Attorney General's Department for further guidance in regard to the application of Section 170 to pinball machines. The Director of Public Prosecutions, Mr. Bowman, in reply re-affirmed the law as laid down in the Isseman case but suggested that no general crusade was necessary, implying that the situation would clear itself, but if in the meantime there were complaints there was no reason why a prosecution should not take place.

Unquestionably it is the duty of The Attorney General and the police to apply the law as they find it. When knowledge of the change in the Act became disseminated it would be expected that the owners and lessees of these machines would observe the law. I take it that is what Mr. Bowman meant when he said that an immediate general crusade was unnecessary.

However, by the fall of 1959 in some parts of the Province there were some of these machines on public display and available to persons who wanted to play them while in other parts they had been removed.

With deference I must say that in my opinion by that date the owners and lessees of these machines had sufficient warning of their illegality and sufficient time within which to remove them and those who were continuing to display them were actually defying the law and should have been prosecuted regardless of whether complaints were made or not.

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S U M M A R Y

I have now reviewed all the evidence relating to the second term of reference and under that heading I now report to you that there were not any improper relationships between senior officials of the legal staff of the Department of the Attorney General and any person or persons and, in particular, that there was no improper termination of any investigation, no suppression of evidence and no payment of money.

P A R T T E N

CHAPTER XXVIII

ORGANIZED CRIME AND SYNDICATED CRIME

In the third term of reference you require me to inquire into and report upon

First - The extent of crime in Ontario

Second - The sufficiency of the law enforcement agencies to cope with it.

Before reporting to you under those headings I think it would be serviceable if I first dealt with the subjects of Organized Crime and Syndicated Crime.

First - Organized Crime

The term "Organized Crime" appears to have been coined in the present century. I am not aware of it having been used earlier.

It relates to an association of persons whose business is crime and to the criminal activities conducted by them as an organized group.

The commission of any crime, except one committed in the heat of passion, involves some degree of organization. The lone robber plans the course of conduct that he will follow in committing a robbery and even if he commits a whole series of robberies his conduct does not come within the meaning of organized crime.

Two or more persons may collaborate and formulate their joint plans for the commission of an isolated robbery but their commission of that offence does not bring it within the term organized crime. Together they might even commit several robberies at isolated times getting together and

formulating their plans for each one separately and in the intervals between them having no association or relationship with one another. One robbery having been completed each goes on his separate way, with no plans between them to become associated one with the other in the future. Each of those robberies would be an isolated occurrence and would have no relation to the others notwithstanding that they were committed by the same persons and notwithstanding also that, if it so happened, the same procedure was followed in all of them.

"Organized Crime" denotes a subsisting association as a social organism within the social body. Within that association are individuals or groups of individuals having a special function to perform and co-operating with one another as inter-dependent parts of the whole in such a way that together they operate a system and their purposes or objects are criminal. There is a continuing, subsisting, conspiracy between them evidenced in part by the substantive offences committed by them.

Organized crime does not have to be nation or state or province wide. Its existence is not determined by the area in which the conspirators operate, although it is not likely to be confined to a relatively small area. Fagan and his band of pick-pockets in London were engaged in organized crime but I am not aware that Charles Dickens described their activities as such.

Neither is it necessary that the association be organized with the precision of a well run commercial organization. It may be relatively tenuous and loose

knit. The "fence" who operates a pawnshop in the City of Toronto and the housebreaker with whom he conspires to provide the outlet for the stolen loot together are engaged in organized crime and this notwithstanding that the pawnbroker is also engaged in legitimate business and the housebreaker, perchance, works in a factory by day and carries on his housebreaking at night and at irregular intervals. What brings their activities within the term is this, namely, that there is a continuing, subsisting arrangement between them by which the stolen loot is disposed of and converted into cash.

There is a misconception, more widespread than I should have thought, that there cannot be organized crime unless there is a "Mr. Big" at the top and in control, an underworld tycoon such as Al. Capone in Chicago, Louis Lepke and "Legs" Diamond in New York and other gangland leaders who established criminal empires in the United States. Fortunately we have not had characters of that ilk in this Province but we have had organized crime and specifically organized gambling.

Second - Syndicated Crime

This term, too, seems to have been coined in the present century.

It denotes a subsisting association of criminals which is so highly organized that it has acquired exclusive control of crime over a given area, - in other words a monopoly. The monopoly does not necessarily include all organized crime in the area. In a given area there may be one or more syndicates exercising exclusive control in different types of crime.

One syndicate may have exclusive control of gambling, another of prostitution and another of narcotics. These syndicates are jealous of their respective monopolies and in their own way guard the areas over which they have control against the intrusion into their field of any opposition. Their common enemy are the honest police, their common confederates the crooked police and crooked politicians. If they are to thrive they need the assistance of both. Their methods of crushing any opposition that threatens their monopoly are varied and usually subtle. They resort to violence only as a last resort. With the aid of crooked police it can be arranged that criminals who set up in opposition to the syndicate are caught. "Knocked off" is the term they use.

The terms "Organized Crime" and "Syndicated Crime" are frequently used as though they were interchangeable when in fact they are not. There can be the former without the latter but there cannot be the latter without the former.

Having defined each and differentiated between them I now deal with the first matter into which you have asked me to inquire, namely, the extent of crime in the Province.

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CHAPTER XXIX

THE EXTENT OF CRIME IN ONTARIO

I think I should first tell you how I approached and proceeded with this particular phase of my inquiry. It was a completely new experience for me and I scarcely knew how or where to begin.

I had read an address given by Commissioner Harvison of the Royal Canadian Mounted Police in the City of Toronto on November 6, 1961, in which he had dealt with the subject of organized crime. Because of what he had said on that occasion, and because of his vast experience, Mr. Wilson, Commission Counsel, and I went to Ottawa and had a lengthy and instructive discussion with him. We had later discussions with him in Toronto after the hearings commenced.

We also conferred with Commissioner Clark of the Ontario Provincial Police.

Chief Constable Mackey of the Metropolitan Toronto Police Department had been ill so we were unable to get the benefit of a discussion with him until a later date.

We went to the City of Hamilton and consulted with Chief Constable Lawrence and two of his top flight officers.

Through the kindness and generous co-operation of Mr. Robert Kennedy, Attorney General of the United States, I was able to arrange an appointment with him and Mr. Wilson and I went to Washington and had a very beneficial talk with him. I was prompted to seek that interview for two reasons: First, he had been counsel to the Senate Committee headed by Senator McClellan

investigating crime in the United States and later as Attorney General had waged unremitting war against organized crime there. Second, there were suggestions of international affiliations between criminals in Ontario and persons in certain areas in the United States and I was anxious to establish a liaison with such law enforcement agencies in the United States as he might recommend. Present at the interview with him were Mr. Herbert J. Miller, Jr., Assistant Attorney General, Criminal Division; Mr. Edwyn Silberling, Chief, Organized Crime and Racketeering Section; Mr. Courtney Evans, Assistant Director, Investigation Division, and Inspector George H. Ashley, R.C.M.P. liaison officer who is stationed in Washington.

Commissioner Harvison placed at my disposal the services of Staff Sergeant Macauley of the R.C.M.P. and during the hearings he worked in co-operation with certain members of the Ontario Provincial Police, particularly Chief Inspector Graham.

During the hearings I had the constant co-operation and assistance of senior officers on the Metropolitan Toronto Police Force.

On October 17 I held a conference in which the following persons participated:

Mr. R.F. Wilson, Q.C.	- Counsel to the Commission
Mr. M.W. Carty	- Assistant Counsel
His Honour Judge B.J.S. Macdonald	- Chairman, Ontario Police Commission
Commissioner C.W. Harvison	- Royal Canadian Mounted Police - Ottawa
Superintendent Woolcott-	"
Commissioner W.H. Clark	- Ontario Provincial Police
Assistant Commissioner W.J. Franks	"

and the following Chief Constables representing various police districts in the Province:

Chief James Mackey	-	Metropolitan Toronto Police Department
Chief L.E. Lawrence	-	Hamilton Police Department
Chief A.E. Knight	-	President, Chief Constables Association
Chief Rex Axcell	-	Ottawa Police Department
Chief Earl Farrow	-	Windsor " "
Chief J.E. Patrick	-	Kitchener " "
Chief Joseph Shilliday	-	Sudbury " "
Chief Wilmot Young	-	Brockville " "

By that date all the other evidence that we were able to obtain had been given and transcribed and I was anxious to learn their reaction to it and also get the benefit of any suggestions they might offer.

As a result of my investigation - and it was as complete as I was able to make it - I now report to you that there has never been, as far as I was able to ascertain, any syndicated crime in this Province but there has been organized crime.

There is nothing constant about the pattern of crime, the behaviour of criminals, the state of public order, or, at deeper levels, the hidden trends in society that dispose men to crime.

My investigation did not disclose that there was organized crime in the Province to any alarming extent except in the field of organized gambling which, of course, included gaming and bookmaking.

In the field of organized illegal gaming Feeley and McDermott were the leading figures together with some lesser lights associated with them.

Earlier in this report I reviewed the history of their operations and I need not repeat what I there said. Their activities ended when Wright was arrested on May 28, 1960.

Organized illegal gaming and bookmaking seem to go hand in hand. It is impossible from the evidence available to me to determine what the volume of illegal bookmaking has been in any recent year but this much is certain that at times it reached staggering figures.

Max Bluestein, Joseph Zeldin and Samuel Binder carried on operations under the name of The Lakeview Athletic Club and they were charged in July, 1960, with keeping a common gaming house. Bluestein gave evidence before me and stated that ninety percent of the bets taken by him and his associates were on sporting events not including horseracing. The betting slips seized by the police at the time of the raid showed a daily average over a nine day period of \$37,700. Bluestein in his evidence said that that amount was excessive but he did admit that his daily average was something in excess of \$10,000 not for the nine day period alone but over the year.

On September 13, 1960, a warrant was executed at the home of one Sydney Traister, 157 Jameson Avenue, Apartment 405, and betting sheets were seized and showed that for a four day period \$65,000 in bets on various sports and horseraces had been made. Included in them was a bet of \$1,000 made through the Jordan Club \$500 of which was laid off with the Somerset Club.

"Jack" Riggs who was a partner with Ernest Midgley and McDermott and Feeley and Robert McLaughlin in the operation of the Jordan Club gave evidence

before me and admitted that the daily average of bets recorded at the Jordan Club was \$30,000.

Riggs, Midgley and others also employed two persons to record bets for them elsewhere than at the Jordan Club and Riggs admitted in evidence before me that those operations had a possible total daily average of \$30,000.

On February 1, 1960, one Norman Joseph of Lewiston, New York, and Michael Genovese of Hamilton were convicted of keeping a common betting house at the Alexander Motel on Highway 20 outside of Hamilton. Betting sheets seized at these premises showed an average daily volume of \$22,900.

On October 2, 1960, Joseph, together with one Hyman Brown, were charged with keeping a common gaming house at 1969-A Avenue Road in the City of Toronto and betting sheets seized on that raid indicated a daily volume of at least \$13,000. It is interesting to observe that having been convicted he was fined \$100 and sentenced to two months imprisonment. He appealed the convictions and was granted bail in the sum of \$10,000 pending the appeal. He returned to New York State and did not surrender himself into custody prior to the appeal being heard nor after. The appeal was dismissed and the bail forfeited.

In July, 1962, the Metropolitan Toronto Police raided the premises at 311 Connaught Avenue and betting sheets seized on the raid showed a daily volume of \$10,000. There was a direct tie-in between the operations at the Connaught Avenue address by Norman Gerow and the Atlas Club. Bets were laid off from the Atlas Club with one Hyman Rothstein of 3455 Hutchison Street, Apartment 202, in Montreal.

On March 28, 1961, Metropolitan Toronto Police raided the premises at 353 Betty Ann Drive and two persons, Reuben Stein and Sam Band, were convicted of keeping a common betting house at that address. While the police were on the premises they intercepted incoming telephone calls. Large bets were being placed or laid off from many points outside Toronto including points in the United States. An examination of the telephone calls billed to the telephones installed at that address showed numerous calls to such centres as Queenston and Buffalo, Chicago, Covington, Cleveland, Miami, Hamilton, Preston, Guelph and Montreal. The monthly toll charges amounted to \$1300 and the toll charges ceased immediately following the raid.

There was other evidence connecting some of the bookmakers in the Metropolitan Toronto area with centres in the United States. Bluestein in his evidence stated that each morning he received from Angel-Kaplan in Chicago what he called the "line" meaning the odds on various sporting events not including horseraces. He also admitted telephoning to similar sources in Boston, New York and Toledo. He protested before me that he did not know to whom he spoke at these three places; that he had been given a code with telephone numbers and when he called he asked for someone by a nickname.

A joint raid had been planned for October 23, 1959, by New York State Police on a number of suspected bookmaking establishments in New York State and by the Ontario Provincial Police on a number of places in Ontario similarly suspected. In some manner knowledge

of those proposed joint raids reached one "Slo" Samuel Stein of the Acme Social Club and he tipped off one Anthony Marrinelli of Buffalo, New York. The tip-off to Marrinelli was ascertained by the New York State Police having planted a tape recording machine. Marrinelli apparently was a partner with Norman Joseph to whom I earlier herein referred.

"Sammy" Balsom, a bookmaker in St. Catharines, stated in evidence before me that from time to time he called McDermott in Toronto to ascertain from him the odds on baseball games and also to lay off bets with him. He stated that he also laid off bets with one Benny Swartz, a bookmaker in Niagara Falls, New York.

The foregoing will give some indication of the volume of illegal bookmaking at the times referred to and the connections between the bookmakers in Ontario and elsewhere in Canada and the United States and also with the handicappers.

As a result of the clubs which Feeley and McDermott controlled or operated or in which they had some important but unascertained interest and other so-called incorporated social clubs having been put out of operation illegal gaming and bookmaking has been substantially reduced but I am not so naive as to think that both have been completely eradicated. Professional gamblers will probably still foregather to carry on their illegal operations but the facilities for so doing have been lessened and that type of illegal activity is much less likely to thrive in the present atmosphere.

Bookmaking is an evil that is difficult to eradicate. From the information gathered by me during

this inquiry I have reached the conclusion that too much leniency has been shown to bookmakers in the matter of punishment. The real operators as a rule are not the persons who are caught. The proprietor of a newsstand or a corner grocery store or an employee in a factory is merely the agent of the real operators who remain in the background. If the outlets provided by the grocer, the newspaper vendor and the person in the factory are not available to the real operators then bookmaking should be reduced to a dribble. How can this be accomplished? In my opinion the operators of these front-ends should be taught that they do so at a greater risk than thus far they apparently have been required to assume. There has by now been sufficient publicity to bring home to them the fact that they run the risk of a jail sentence even for the first offence. The Magistrates of course must exercise their best discretion but for myself I see no reason why a jail sentence should not be imposed even for the first offence. When news of that attitude by the courts becomes broadcast these potential operators of the front-ends will think twice before running that risk.

In addition to the foregoing these front-ends cannot operate if they have no customers. The extent of the evils arising from bookmaking is, I fear, not appreciated by the public generally. Mr. Robert F. Kennedy, Attorney General of the United States, in an article published in the Atlantic Monthly in April, 1962, pointed out the calamitous results flowing from this illegal activity. That article is so informative that I have included much of it as Exhibit 8 in the

Appendix hereto. At the risk of repeating I here quote the last sentence of that article:

"If they..." (the public) "...would stop patronizing the illegal bookie, the numbers runner and the sports-pool operator, they could take the profit out of gambling and bring organized crime down to size quicker than all the combined efforts of the federal and local law-enforcement agencies".

The bookmakers operating the back-ends are parasites. They produce nothing and garner huge profits at the expense of those who patronize the front-ends, and as Attorney General Kennedy has pointed out those profits are funneled into other illegal activities, not least among them being the dealing in narcotics. These back-end operators are gnawing away at the heart of enforcement agencies and eating at the moral foundations of our society. I fear that the persons who slip around the corner and either for themselves or their employers place a bet with the news vendor or in the cigar store do not appreciate that in doing so they are aiding, abetting and co-operating with these parasites not only at the local level but on and up to the heads of international syndicates with the calamitous results described by Mr. Kennedy. They do not want to consciously co-operate with them but in fact that is what they are doing.

I do not want to leave this subject without a brief reference to the Mafia. In Scott's seventh report he records that under date April 27th Wright told him that he knew a lot about the Mafia. In my opinion Wright knows nothing about the Mafia. Commissioner Harvison gave evidence before me and stated that in his opinion while some of the operations of those engaged in organized crime are Mafia-like

there is no proof and he does not think that those persons do belong to the Mafia. The words "The Mafia" are frightening words but the fear that The Mafia could be a continuing organization and operating even in Canada should not lead us to think that it is in fact still subsisting and there was no evidence before me that it does subsist or that any of the activities of those engaged in organized crime were in any way associated with The Mafia.

From time to time there have been and I suppose there will continue to be persons associating together in small groups for the purpose of carrying on illegal activities in other fields of crime all in a manner that brings them and their activities within the purview of organized crime. Examples are not lacking. A gang of hoodlums get together and over a short period of time carry out a series of break-ins in the summer resort areas of the Province in the off-season but those outbreaks are generally short-lived and the offenders apprehended. There may be a ring of car thieves operating over a reasonably large area. Car thefts may be by free-lancing delinquents rather than by an organized group and if and when they are by the latter the existence of the organized group is usually not determined until the thieves or some of them are caught and the organization exposed.

It is, therefore, impossible to say at any given time with absolute assurance that there are no organized criminals operating in our society. The best that at any given time one can say is that there does not appear to be.

There is no doubt in my mind ;that the establishment of this Commission under The Public Inquiries Act has operated as an effective brake at least for the time being on the criminal activities of persons disposed to organize themselves into groups for the purpose of carrying on their illegal operations.

Thus far I have been focusing attention more or less on organized crime in the Province. What about crime generally?

It was not until 1961 that a reliable system was devised by which the extent of crime throughout the whole of Canada or any particular Province could be accurately measured. This was due to the fact that there was no uniform system throughout Canada of compiling statistics. Police departments were compiling statistics to suit their own local circumstances and not on a uniform basis.

In 1955 the Canadian Association of Chiefs of Police formed a uniform crime reporting committee and a study was conducted by it in conjunction with the Royal Canadian Mounted Police and the Dominion Bureau of Statistics. As a result of those studies a uniform system of reporting was adopted at a Convention of Canadian Chief Constables in 1961 to be put into operation as of January 1, 1962. Reports on a uniform basis are now submitted monthly to the Dominion Bureau of Statistics and compiled at the end of the year and issued to each Department.

I have not examined the compilation for 1962 for the reason that I have assumed that you would be primarily interested in a comparison of the extent of crime in Ontario as reflected by that compilation with the extent of crime in the Province in earlier years.

Counsel to this Commission discussed that phase of the matter with an outstanding Government statistician to see if it were possible to compile a report showing the incidence of crime in the Province over the last five or ten years. He advised that the figures available through the Dominion Bureau of Statistics are not such as to enable him or any other statistician to compile such a report.

In order that in the future the extent of crime in the Province generally or in any part thereof may be readily available the Ontario Police Commission proposes to require every Chief Constable throughout the Province to forward to it a copy of the Monthly Report submitted to the Dominion Bureau of Statistics. Since the form of those reports is now uniform it will be possible from month to month to determine the incidence of crime in any given area and if there are any unusual outbursts to see to it that there is sufficient police activity to repress it.

This opinion was confirmed at the Conference held by me on October 17th and by an examination of the data furnished to me by those attending this Conference.

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CHAPTER XXX

THE SUFFICIENCY OF LAW ENFORCEMENT AGENCIES IN THE PROVINCE

I interpreted your direction to me under this heading as requiring me to inquire into and report upon the adequacy of the present system for policing the Province.

In reporting to you under this heading it may be serviceable if I first deal with the broad question of control in relation to police agencies.

At any given time the Government in office as the representative of the people in the Province is the custodian of Law and Order in the Province. To protect that custody the Legislature may delegate to certain bodies created by it appropriate powers but the Government can neither decline that custody or transfer it.

Custody carries with it responsibility and there cannot be responsibility without control. Since the Government at any given time has that custody it follows that it must have control of the agencies created by the Legislature for its preservation.

The Attorney General as one of the Ministers of the Crown who comprise the executive is, in the field of law enforcement, the nominee or spokesman of the Government.

In the hearings before me it was submitted that, in order to prevent the possible abuse of that power of control, there should be some restraint placed upon it; otherwise The Attorney General and the Government of which he is a member has at hand the means of establishing a police state. I have no fear that such a result will follow.

A like submission was made to and rejected by The Royal Commission in Great Britain which was set up to

review the constitution of the police throughout Great Britain and the arrangements for their control and administration. The final report of the Commission is dated May 24, 1962. Dealing with that submission the Commissioners said:

" We find this argument unconvincing for it rests, in our view, on fallacious assumptions. British liberty does not depend, and never has depended, upon the dispersal of police power. It has never depended upon any particular form of police organization. It depends on the supremacy of Parliament and on the rule of law. We do not accept that the criterion of a police state is whether a country's police force is national rather than local..... The proper criterion is whether the police are answerable to the law and, ultimately, to a democratically elected Parliament. It is here, in our view, that the distinction is to be found between a free and a totalitarian state. In the countries to which the term police state is applied opprobriously, police power is controlled by the government; but they are so called not because the police are nationally organized but because the government acknowledges no accountability to a democratically elected Parliament, and the citizens cannot rely on the courts to protect them. Thus in such countries the foundations upon which liberty rests do not exist."

" Theoretically it could be argued that a party in power, confident of the support of a majority of the members of the House of Commons, would possess opportunities of using the police for their own purposes - possibly for the purpose of perpetuating their own power. Orders could be given for the arrest of persons ill-disposed to the Government. It is not difficult to recall recent instances abroad where such things have happened. So long, however, as the citizen is protected by the rule of law and the independence of the Judiciary we believe the risk of such mischief in this country to be remote."

Turning now to the legislation enacted in this Province by which policing agencies have been established:

The Police Act, R.S.O. 1960, Chapter 298, as amended by Ontario Statutes 1960-61, Chapter 77, and 1961-62, Chapter 105, provides for the policing of the Province by (a) the Ontario Provincial Police, and (b) Municipal Police, and for the distribution of responsibility between them. By that Act the Ontario

Police Commission has also been created.

It is fitting that I deal first with that Commission. Its composition, powers and obligations are set out in Section 39 (a) of the Act.

It is composed of three persons who shall be appointed by The Lieutenant Governor in Council.

Its function is to "exercise the powers and perform the duties conferred or imposed upon it by" the Act.

The moneys required for its purposes shall, commencing as of March 31, 1962, be paid out of the moneys appropriated by the Legislature for those purposes.

It is required in each year to hold such meetings as it deems appropriate and those meetings are required to be open to the public unless otherwise directed by the Commission.

Subsection 7 of Section 39 (a) is as follows:

" The Commission shall after the close of each calendar year, file with the Attorney General an annual report upon the affairs of the Commission, and the Attorney General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session, or, if not, at the next ensuing session".

In my respectful opinion the true position of the Commission is simply this:

It is a body created by the Legislature to assist the Government in the preservation of law and order in the Province and to that end certain powers have been vested in it not only with respect to the Ontario Provincial Police but also, as I will show later, with respect to Municipal Police Forces.

If it were to be held that the scope of its powers is greater than that it would mean that the Legislature had attempted to and, indeed, succeeded in divesting

the Government of its powers with respect to the preservation of law and order in the Province and instead vested those powers solely in the Commission. That such should be the result is to me unthinkable. To me it is fundamental and crystal clear that the Legislature has not the constitutional power to surrender the control of any policing agency, be it the Ontario Provincial Police or the Municipal Police, to any body. The powers of control vested in the Ontario Police Commission or a Municipal Council or a Board of Police Commissioners are not original but delegated powers and are subject to an overriding control vested in the Government and exercisable on its behalf through its nominee, The Attorney General.

The composition of the Ontario Provincial Police and the duties of its members are provided for by the following sections of the Police Act:

"40 - (1) There shall be a Commissioner of the Ontario Provincial Police Force who shall be appointed by the Lieutenant Governor in Council.

(2) Subject to the direction of the Ontario Police Commission, the Commissioner has the general control and administration of the Ontario Provincial Police Force and the employees connected therewith.

(3) The Commission, the Commissioner or a deputy commissioner may hold an inquiry into the conduct of any member of the Ontario Provincial Police Force or of any employee connected therewith and upon such inquiry it or he has and may exercise all the powers and authority that may be conferred upon a person appointed under The Public Inquiries Act.

42 - (1) The Ontario Provincial Police Force shall consist of the Commissioner and such other police officers and constables as the Lieutenant Governor in Council appoints.

(2) The Lieutenant Governor in Council may appoint such employees as may be required in connection with the Force.

43 - (1) It is the duty of the members of the Ontario Provincial Police Force, subject to this Act and the orders of the Commissioner,

- "(a) to perform all duties that are assigned to constables in relation to the preservation of the peace, the prevention of crime and of offences against the laws in force in Ontario and the criminal laws of Canada and the apprehension of criminals and offenders and others who may be lawfully taken into custody;
- (b) to execute all warrants, perform all duties and services thereunder or in relation thereto that may, under the laws in force in Ontario, be lawfully executed and performed by constables;
- (c) to perform all duties that may be lawfully performed by constables in relation to the escort and conveyance of convicts and other prisoners and mentally incompetent persons to and from any courts, places of punishment or confinement, hospitals or other places;"

Certain sections in Regulation 486 are also relevant.

Section 28 requires that applications for appointment to the Force shall be made in writing to the Commissioner.

Section 30 provides that the Commissioner may require the applicant to appear personally before him in order to determine his suitability for appointment.

Section 32 to 41 inclusive deals with Discipline. The effect of those sections is as follows:
 Section 34: The Commissioner may suspend from duty any member of the Force who is charged with an offence against the Code.

Section 37: The Commissioner shall order the accused to appear before him at a hearing.

Section 38: The Commissioner, having conducted a hearing, shall either (a) dismiss the charge or (b) find the accused guilty and award a punishment under Section 40.

The punishment provided by Section 40 may be (a) reprimand, (b) subject to the approval of The Attorney General, a deduction in pay, (c) dismissal, (d) being required to resign, (e) reduction in pay seniority or rank.

Section 40 (2) provides that where the Commissioner decides to impose punishment under (c), (d) or (e) above he shall recommend accordingly to The Attorney General who may cause the punishment to be brought into effect.

In my respectful opinion it would be better to leave the matter of the appointment of the constables to the Ontario Provincial Police entirely with the Commissioner rather than having them appointed by the Lieutenant Governor in Council. The evils flowing from the present system are several:

First: It opens the door through which such appointments may be made on political considerations.

Second: It exposes members of the Government or the political party in power to external pressures on behalf of persons desirous of being appointed.

Third: When a constable is thus appointed it leaves him in the position where he feels beholden to those who appointed him and those, - a local member may be among them, - who sponsored him, and in the exercise of his police duties he is tempted to show favouritism not only to those friends but also to friends of those friends.

Under the Act respecting the Royal Canadian Mounted Police, Statutes of Canada 7-8 Elizabeth II, Chapter 54, the Governor in Council appoints the officers on that force but by Section 7 (1) of that Act the Commissioner appoints the members of the force other than officers.

I therefore recommend that Section 42 (1) of the Police Act be amended by striking out the words "and constables" and by adding a new subsection to

provide that all constables be appointed by the Commissioner.

Presently if the Commissioner of the Ontario Provincial Police in the exercise of his disciplinary power decides after a hearing that a constable should be dismissed or required to resign then, by virtue of Section 40 (2) of Regulation 486 he can only recommend that punishment to The Attorney General who may cause it to be brought in effect. The Attorney General is thereby given a discretion.

In my respectful opinion the matter of punishment should also be left entirely to the Commissioner with a right of appeal to the Ontario Police Commission.

I therefore recommend that S.S. (2) of Section 40 of Regulation 486 be deleted and in its stead a regulation be passed giving to a member of the Force who has been found guilty of an offence against the Code of Offences, and on whom the punishment specified in Section 40 (1) (b) to (e) inclusive has been imposed, a right of appeal to the Ontario Police Commission. You will note that I would not give any right of appeal where the punishment imposed is merely a reprimand.

I recommend also that on any hearing before the Commissioner of the Ontario Provincial Police or anyone designated by him under Section 41 of Regulation 486 the evidence shall be given under oath and the proceedings on the hearing recorded in shorthand and transcribed and that a new regulation be passed to that effect. This recommendation is prompted in part by the fact that during the hearings before me there was a dispute as to what had been said by a constable on the Force in the course of disciplinary proceedings against him. That constable subsequently resigned

and on the hearing before me what he had then said became important but there ~~were~~ only sketchy notes of what he had been asked and what he said on that occasion.

The Ontario Police Commission occupies a very important position as the authority in between The Attorney General and that police agency. It is not and should not be his alter ego. Being in closer touch with the Force than is The Attorney General it is in a position where it can be of invaluable assistance to him by way of advising and recommending on matters pertaining to the Force. Communications between The Attorney General and the Commission, I think, should always be a matter of record and if there should come a time when there is any conflict between the Commission and The Attorney General and The Attorney General overrides the Commission that can and should be pointed out in the Commission's Annual Report to the Legislature. This in itself would be a safeguard against the administration of the Ontario Provincial Police being affected by any political considerations.

As between the Ontario Police Commission and the Commissioner of the Ontario Provincial Police the Commission in the exercise of its power to direct should recognize that much must be left to the discretion of the Commissioner and there should be a minimum of interference with him by the Commission. He is a man possessing intelligence, integrity, executive ability and, above all, experience in police work. If he is lacking in any of these qualifications he should not be appointed in the first place. Given such a man I should

think that the co-operation between him and the Commission should be excellent.

In order that the Commission may properly carry out its function there must of necessity be adequate liaison between it and the Commissioner. This would require that monthly reports be submitted by the Commissioner to the Commission. It would also require some system of inspection by the Commission. I have been informed by Judge Macdonald, the present Chairman of the Commission, that this has already been provided for. I should think, too, that because of the overriding power of control by The Attorney General that a duplicate of those reports should also be submitted to him.

This concludes all I have to say with respect to the Ontario Provincial Police. _I turn now to the

MUNICIPAL POLICE FORCES

Municipalities are the creatures of the Legislature. They derive their power and authority from it. As creatures of that central authority whatever powers they have are powers delegated to them by the authority that created them. While this is fundamental it is frequently lost sight of and municipalities regard themselves as having original rather than delegated authority. Therefore when a police force is established within a municipality that is done by virtue of a delegated authority.

By Section 7 of The Police Act every city shall have a Board of Commissioners of Police and any County or Town and any Village or Township having a population of more than 5,000 and with the consent of

The Attorney General any Village or Township having a population less than 5,000 may by by-law constitute a Board.

As originally enacted the composition of a Board was as follows: (a) The head of the Council, (b) A Judge of any County or District Court designated by The Lieutenant Governor in Council, and (c) Such person as the Lieutenant Governor in Council designated; but by The Police Amendment Act, 1961-62, subsections (b) and (c) of Section 7 (1) were repealed and it was provided that instead of the Judge and one person designated by the Lieutenant Governor in Council there should be two persons so designated. That repeal and amendment, however, is not to come into effect until a day after the 1st day of April, 1963, to be named by the Lieutenant Governor by his proclamation.

At first blush I inclined to the view that the change in the composition of the Board was unwise; that the Judge was the one member who was not liable to be subjected to external pressures. After making inquiries as to the reason for the change and on further reflection I am not convinced that it was an unwise move. In many counties the County Judge is already overworked and it was placing an extra burden on him to require him to function as a member of the Board. A Judge brought in from some other County would not be familiar with the local situation. Moreover, the local Judge presiding at the Sessions and in the County Judges Criminal Court is necessarily placed in a position where police constables are frequently before him giving evidence. Knowing that the Judge is a member of the Board and that their name may come before him when

promotions in rank are being considered they may not be quite as detached in the prosecution as they otherwise would be. Even unconsciously they may lean in favour of the Crown by way of demonstrating how efficient they have been in their detection and arrest of the accused. All these are matters that should be considered when it comes to deciding the personnel of the Board.

I therefore do not recommend any change in the section as amended.

During the hearings before me the Association of Crown Attorneys in the Province submitted that it would be advisable to have the Crown Attorney for the County a member of the Board; that as Crown Attorney he would be familiar with local conditions and his association with the police would enable him to judge their fitness and general qualifications. I was not impressed by the submission. The very reasons put forth in support of it in my respectful opinion condemns it. The Crown Attorney is too close to the police.

In municipalities where there is a Board it appoints the members of the Force.

In municipalities where there is no Board the members of the Force are appointed by the Council. The evils flowing from that system are the same as the evils that I earlier pointed out flow from the system whereby constables are appointed to the Ontario Provincial Police by the Lieutenant Governor in Council. One reads from time to time in the Press of conflicts between members of a municipal police force and members of the council in which it is suggested that there is undue interference by the Reeve or other elected

officials. Where such a situation develops there is sufficient power vested in the Ontario Police Commission by Section 48 of The Police Act to step in and investigate. Having investigated it reports to The Attorney General so that he as the Minister of the Crown may take such steps as are necessary to insure proper and adequate policing within that municipality.

One of the weaknesses in the present system consists in the fact that there are too many one and two and perhaps even three man municipal police forces throughout the Province. The present system was geared to earlier days when the Village Constable seldom had any more arduous duties than arresting the Village drunk or stopping a fight between two inebriated men on a Saturday night or chasing the kids off the street or stopping pranksters on Hallowe'en. To-day vicious men move into his area in high-powered motor vehicles; in a little, sleepy, peaceful Village a bank is held up and the criminals finish the job and are off with the loot while the victims are looking for the Village Constable who perchance is blocks away collecting a dog tax or chasing naked kids from the swimming hole because some snoop woman complained.

This may be a slight exaggeration but it serves to make my point that these one man or two or even three men municipal police forces are not adequate to meet modern conditions. No chain is stronger than its weakest link and in considering the overall policing of the Province I think these small municipal forces should be done away with and the duties now assigned

to them taken over by the Ontario Provincial Police. This may require re-shuffling of police areas which will take time to accomplish but I think that should be the ultimate goal.

I have discussed this matter with Judge Macdonald, Chairman of the Ontario Police Commission, and I am happy to report that the Commission has for some time been giving it the attention that it merits. In fact it has almost top priority with the Commission.

You are interested in knowing whether the Commission has sufficient authority to deal with the problem. In my opinion it has.

Section 48 of The Police Act is as follows:

"48 - (1) The Ontario Police Commission or any member thereof designated by the chairman may investigate, inquire into and report to the Attorney General upon the conduct of or the performance of duties by any chief constable, other police officer, constable, special constable or by-law enforcement officer, the administration of any police force, the system of policing any municipality, and the police needs of any municipality,

(a) at the request of the council of any municipality, in which case the municipality, unless the Attorney General otherwise directs, shall pay the costs of the investigation; or

(b) without the request of the council of a municipality, in which case the cost of the investigation shall be paid out of the Consolidated Revenue Fund.

(1a) The Ontario Police Commission may investigate, inquire into and report to the Attorney General upon any matter relating to the maintenance of law and order in Ontario.

(2) The Commission or person holding an investigation under this section has and may exercise all the powers and authority that may be conferred upon a person appointed under The Public Inquiries Act."

In my opinion there are other sufficient statutory provisions to insure adequate policing of

the Province. They are contained in The Police Act and are as follows:

"2 - (1) Every city and town is responsible for the policing of and maintenance of law and order in the municipality and for providing and maintaining an adequate police force in accordance with the police needs of the municipality.

(2) Every village and township which, or any part of which, has a density of population and real property assessment sufficient to warrant the maintenance of a police force and which has been so designated by the Lieutenant Governor in Council is, with regard to the municipality or part thereof, as the case may be, responsible for the policing and maintenance of law and order and for providing and maintaining an adequate police force in accordance with the police needs of the municipality or part thereof.

(3) Where by reason of the establishment of any enterprise or because for any other reason special circumstances or abnormal conditions exist in any area that in the opinion of the Attorney General would render it inequitable that the responsibility for policing should be imposed on any municipality or on the Province, the Lieutenant Governor in Council may designate such area a special area and may require any company operating such enterprise or being the owner of such area to enter into an agreement under section 53, for the policing of such area.

3 - (1) The Ontario Provincial Police Force is responsible for policing all that part of Ontario that is not in a municipality or part of a municipality referred to in section 2, but the Ontario Provincial Police Force is not responsible for policing any part of Ontario in which a municipal police force is maintained.

(2) The Ontario Provincial Police Force, in addition to performing the policing services prescribed in subsection 1, shall

(a) maintain a traffic patrol on the King's Highway;

(b) subject to any agreement in force under The Liquor Licence Act, enforce The Liquor Licence Act, The Liquor Control Act and the regulations thereunder and any other laws designated by the Attorney General;

53 - (1) Subject to the approval of the Attorney General, the Commission may enter into an agreement with the council of any municipality for the policing of the whole or any part of the municipality, or with any company for the policing of any area, by the Ontario Provincial Police Force.

" (2) In municipalities having a board, no agreement shall be entered into under this section except at the request of the board.

(4) Where an agreement has been entered into under subsection 1, the members of the Ontario Provincial Police Force assigned to duty in the municipality or area are charged with the duty of preserving the peace, preventing crime and other offences, including offences against the by-laws of the municipality, and shall perform such other duties as are specified in the agreement.

4. Where the Ontario Police Commission finds that a municipality mentioned in section 2 does not maintain a police force and is not provided with police services pursuant to an agreement under section 52 or 53, the Commission may take such action as it deems necessary to secure the proper policing of the municipality by the Ontario Provincial Police Force, and the cost thereof shall be charged to the municipality and may be deducted from any grant payable out of provincial funds to the municipality or may be recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty.

5. - (1) Where the Ontario Police Commission finds that a municipality mentioned in section 2, or any other municipality that maintains its own police force, is not, in the maintenance of such police force, complying with this Act and the regulations, it may communicate with the clerk of the municipality indicating that the provisions of this Act or the regulations are not being complied with and requesting the council of the municipality to take such steps as are necessary to comply therewith.

(2) Where the council neglects to comply with a request made under subsection 1, the Ontario Police Commission may take such action as it deems necessary to secure the proper policing of the municipality by the Ontario Provincial Police Force, and the cost thereof shall be charged to the municipality and may be deducted from any grant payable out of provincial funds to the municipality or may be recovered with costs by action in any court of competent jurisdiction as a debt due to Her Majesty.

6. Where an area has been designated under subsection 3 of section 2 and the company required to enter into an agreement under section 53 refuses or neglects to enter into an agreement, the Ontario Provincial Police Force shall police the area and the cost thereof may be recovered with costs from the company by action in any court of competent jurisdiction as a debt due to Her Majesty."

Before leaving this subject I think it timely to say this: The publicity given to the hearings before me has unquestionably adversely affected the public image of the Ontario Provincial Police. That was an unfortunate but inevitable result. I would like to restore that image so far as it is possible for me to do so. There are some excellent officers on that Force, men dedicated to their duties. I can visualize the Ontario Provincial Police being a source of pride not only to its members but also to the people of this Province whose lives and property they protect.

I think there is a great necessity for an educational program designed to imbue in the minds of the rising generation respect for and confidence in the police generally. The mental images impressed on our minds in our formative years remain with us and are not too easily blotted out. This is just one facet of an essential program for the development of greater respect for all lawfully constituted authority.

 " " " "

CHAPTER XXXI

THE ROLE OF THE LAWYER

At the conclusion of the public hearings Counsel to this Commission and Counsel for the Opposition Parties in the House all urged that, having regard to certain evidence given before me, I should, in this report, deal with this subject. I may say that I have been sorely tempted to do so but on reflection I concluded I should not because it does not come within any of the terms of reference in the Commission issued to me.

The Law Society is the appropriate authority to deal with this matter. I understand that it has ordered and perhaps already been furnished with a copy of those parts of the evidence necessary for its purposes.

————— " ————— " —————

A D D E N D A

THE SUFFICIENCY OF LAW ENFORCEMENT AGENCIES IN THE PROVINCE

Within the last few days I have read in the Press an official announcement by The Honourable The Attorney General of a proposed change affecting the Ontario Provincial Police Force. As I read that announcement by that change it is proposed that the Commissioner of the Ontario Provincial Police be a Deputy Minister in The Attorney General's Department.

I think as your Commissioner I should express my views with respect to that proposed change.

With the utmost respect I must say that in my opinion the Commissioner at the head of the Ontario Provincial Police should not be a Deputy Minister in The Attorney General's Department or any other person within that Department.

A Deputy Minister is the alter ego of his Minister. The Commissioner at the head of the Ontario Provincial Police should never be the alter ego of The Attorney General. I do not see how it is possible for him to occupy both positions at the same time and do justice to both. As head of the police he must be in the position from which he may express to the Attorney General his independent views. He can never speak from that standpoint so long as he is the alter ego of The Attorney General.

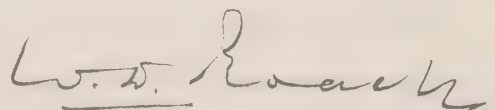
The great danger in the proposed change is that the police may become bedevilled by politics. As I pointed out in the main body of this report that is the evil that exists at the municipal level where

This completes my report. In it I have, to the best of my ability, dealt with all the matters referred to me by you while at the same time keeping it within readable limits.

I regret that it was impossible for me to submit it to you sooner but you will understand that in addition to this assignment I also had duties to perform in the Court of Appeal. My brother Judges in that Court very generously relieved me of some of those duties and I here desire to record my appreciation for that relief.

I also express to all who assisted me in this assignment, in particular Mr. R.F. Wilson, Q.C., Commission Counsel, Mr. M.W. Carty, Assistant Counsel, all the other counsel who participated in the hearings, the members of the office staff and the Police my appreciation for their co-operation and assistance.

Dated this 15th day of March, 1963.

A handwritten signature in dark ink, appearing to read "L. D. Roach". The signature is fluid and cursive, with a horizontal line under the first part of the name.

COMMISSIONER

E X H I B I T 1

THE SEAL OF
THE PROVINCE
OF ONTARIO

"J. K. MACKAY"

(C R E S T)

PROVINCE OF ONTARIO

ELIZABETH THE SECOND, by the Grace of God of the United
Kingdom, Canada and Her other Realms
and Territories Queen, Head of the
Commonwealth, Defender of the Faith.

TO

THE HONOURABLE WILFRID DANIEL ROACH,
Justice of Appeal of Our Supreme Court,

G R E E T I N G:

WHEREAS in and by Chapter 323 of The Revised
Statutes of Ontario, 1960, entitled "The Public Inquiries
Act", it is enacted that whenever Our Lieutenant Governor
in Council deems it expedient to cause inquiry to be
made concerning any matter connected with or affecting
the good government of Ontario or the conduct of any
part of the public business thereof or of the adminis-
tration of justice therein and such inquiry is not
regulated by any special law, he may, by Commission
appoint one or more person to conduct such inquiry and
may confer the power of summoning any person and requiring
him to give evidence on oath and to produce such documents
and things as the commissioner or commissioners deem
requisite for the full investigation of the matters into
which he or they are appointed to examine;

AND WHEREAS Our Lieutenant Governor in Council of Our Province of Ontario deems it expedient to cause inquiry to be made concerning the matters hereinafter mentioned:

NOW KNOW YE that WE, having and reposing full trust and confidence in you the said THE HONOURABLE WILFRID DANIEL ROACH, Justice of Appeal of Our Supreme Court, DO HEREBY APPOINT you to be Our Commissioner to inquire into and report upon:

- (1) the administration of the laws and regulations regarding the incorporation and operations of social clubs having regard to allegations made by the Leader of the Opposition in his speech of November 29th, 1961;
- (2) any improper relationships, as alleged by the Leader of the Opposition in his speech of November 29th, 1961, between senior officials of the legal staff of the Department of the Attorney General and any person or persons, and more particularly relating to -
 - (a) the termination of investigations,
 - (b) the suppression of evidence,
 - (c) the payment of money;
- (3) the extent of crime in Ontario and the sufficiency of the law enforcement agencies to deal with it.

AND WE DO HEREBY CONFER on you Our said Commissioner the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as you Our said Commissioner deems requisite for the full investigation of the matters into which you are appointed to examine.

TO HAVE, HOLD AND ENJOY the said Office and authority of Commissioner for and during the pleasure of Our Lieutenant Governor in Council for Our Province of Ontario.

IN TESTIMONY WHEREOF We have caused these Our Letters to be made Patent, and the Great Seal of Our Province of Ontario to be hereunto affixed.

WITNESS: THE HONOURABLE JOHN KEILLER MACKAY,
a Companion of Our Distinguished
Service Order, upon whom has been
conferred Our Volunteer Officers'
Decoration, One of Our Counsel learned
in the Law, a Lieutenant-Colonel in
Our Canadian Army Supplementary
Reserve, Doctor of Civil Law, Doctor
of Laws,
LIEUTENANT GOVERNOR OF OUR PROVINCE
OF ONTARIO

at Our City of Toronto in Our said Province this
eleventh day of December in the year of Our Lord
one thousand nine hundred and sixty-one and in
the tenth year of Our Reign

BY COMMAND

"JOHN YAREMKO"

John Yaremko
PROVINCIAL SECRETARY
AND
MINISTER OF CITIZENSHIP

COMMISSION

appointing

THE HONOURABLE
WILFRID DANIEL ROACH

under The Public Inquiries Act

RECORDED this 14th

day of December, A.D. 1961

as Number 85

in Liber C.S.37

"GRACE C. DUNSFORD"

Grace C. Dunsford
Recording Officer

PROVINCIAL SECRETARY'S OFFICE
TORONTO, ONTARIO

EXHIBIT 2

NOTICE OF SITTINGS OF THE ROYAL COMMISSION
ON CRIME IN ONTARIO

By Order-in-Council dated the 11th day of December, 1961, the Honourable Wilfrid D. Roach, a Justice of Appeal of The Supreme Court of Ontario, was appointed a Royal Commissioner to inquire into and report upon,

- (1) the administration of the laws and regulations regarding the incorporation of social clubs and alleged improper aspects of their operation in the Province;
- (2) allegations of improper conduct on the part of senior officials of the Department of the Attorney-General in relation to
 - (a) the termination of investigations,
 - (b) the suppression of evidence,
 - (c) the payment of money;
- (3) the extent of crime in Ontario and the sufficiency of the law enforcement agencies to deal with it.

Any person having any information touching the subject matter of the inquiry is asked to promptly communicate with the undersigned.

Public hearings of the Royal Commission will be conducted, commencing on Tuesday the 20th day of March, 1962, at 10 o'clock at the Ontario Government Building (9th Floor), 801 Bay Street, Toronto 2, Ontario.

Dated at Toronto this 27th day of February, 1962.

Telephone
924-8395

Roland F. Wilson, Q.C.
9th Floor
Ontario Government Building
801 Bay Street
Toronto 2, Ontario
Commission Counsel

EXHIBIT 2 (Continued)

NAMES OF NEWSPAPERS IN WHICH THE NOTICE
OF SITTINGS WAS PUBLISHED

Ontario Intelligencer	-	Belleville
London Free Press	-	London
Hamilton Spectator	-	Hamilton
Kingston Whig-Standard	-	Kingston
Guelph Guardian	-	Guelph
Renfrew Advance	-	Renfrew
Renfrew Mercury	-	Renfrew
Daily Times-Journal	-	Fort William
Globe and Mail	-	Toronto
Toronto Star Limited	-	Toronto
The Telegram	-	Toronto
Sault Daily Star	-	Sault Ste Marie
Times Journal	-	St. Thomas
Ottawa Citizen	-	Ottawa
Windsor Star	-	Windsor
Sudbury Daily Star	-	Sudbury
News Chronicle	-	Port Arthur
Ottawa Journal	-	Ottawa
Sarnia Observer	-	Sarnia
Daily Press	-	Timmins
Evening Tribune	-	Welland
Daily Mercury	-	Guelph
St.Catharines Standard	-	St. Catharines
Pembroke Observer	-	Pembroke
Standard-Freeholder	-	Cornwall
Evening Review	-	Niagara Falls
Recorder & Times	-	Brockville

RELEVANT SECTIONS OF THE CORPORATIONS ACT

"3. (1) The Lieutenant Governor may in his discretion, by letters patent, issue a charter to any number of persons, not fewer than three, of twenty-one or more years of age, who apply therefor, constituting them and any others who become shareholders or members of the corporation thereby created a corporation for any of the objects to which the authority of the Legislature extends, except those of railway and incline railway and street railway corporations and corporations within the meaning of The Loan and Trust Corporations Act."
(Formerly Section 2 (1) of The Companies Act)

"4. The Lieutenant Governor may in his discretion issue supplementary letters patent to any corporation that applies therefor amending or otherwise altering or modifying its letters patent or prior supplementary letters patent."
(Formerly Section 8 of The Companies Act)

"5. The Provincial Secretary may in his discretion and under the seal of his office have, use, exercise and enjoy any power, right or authority conferred by this Act on the Lieutenant Governor, but not those conferred on the Lieutenant Governor in Council."
(Formerly Section 3 of The Companies Act)

Part III of The Corporations Act contains special provisions applicable to corporations without share capital. All of the incorporated social clubs to which reference was made in the evidence before me were or are corporations without share capital. Those special provisions are as follows:

"101. A corporation may be incorporated - - - that has objects that are of a patriotic, religious, philanthropic, charitable, educational, agricultural, scientific, artistic, social, professional, fraternal, sporting or athletic nature or that are of any other useful nature.

102. (1) The applicants for the incorporation of a corporation shall file with the Lieutenant Governor an application showing:

1. The names in full, the place of residence and the calling of each of the applicants.
2. The name of the corporation to be incorporated.
3. The objects for which the corporation is to be incorporated.

- "
4. The place in Ontario where the head office of the corporation is to be situate.
 5. The names of the applicants who are to be the first directors of the corporation.
 6. Any other matters that the applicants desire to have embodied in the letters patent".

(Formerly Section 7 of The Companies Act)

"6. An applicant under this Act shall establish to the satisfaction of the Provincial Secretary the sufficiency of the application and all documents filed therewith and shall furnish such evidence of the bona fides of the application as the Provincial Secretary deems proper."

"104. Upon incorporation of a corporation, each applicant becomes a member thereof.

105. A member shall not, as such, be held answerable or responsible for any act, default, obligation or liability of the corporation or for any engagement, claim, payment, loss, injury, transaction, matter or thing relating to or connected with the corporation.

106. Unless the letters patent, supplementary letters patent or by-laws of a corporation otherwise provide, there is no limit on the number of members of the corporation.

107. (1) Subject to subsection 2, persons may be admitted to membership in a corporation by resolution of the board of directors, but the letters patent, supplementary letters patent or by-laws may provide that such resolution is not effective until it has been confirmed by the members in general meeting.

(2) The letters patent, supplementary letters patent or by-laws of a corporation may provide for the admission of members ex officio.

109. (1) A corporation - - - shall be carried on without the purpose of gain for its members and any profits or other accretions to the corporation shall be used in promoting its objects and the letters patent shall so provide---

111. (1) Unless the letters patent or supplementary letters patent otherwise provide, the interest of a member in a corporation is not transferable and lapses and ceases to exist upon his death or when he ceases to be a member by resignation or otherwise in accordance with the by-laws of the corporation."

(In the case of each of the incorporated social clubs referred to in the evidence before me the letters patent did not "otherwise provide")

Part VIII of the Act contains provisions applicable to all corporations which, of course, includes social clubs incorporated under the Act.

Included in Part VIII are the following:

"291. (1) Notwithstanding this or any other Act or law, no corporation that has objects in whole or in part of a social nature, other than a corporation commonly known as a service club, shall change the location of any of its premises without the prior consent in writing of the Provincial Secretary".

It is important to observe that this section was first enacted in 1960 and came into effect on April 12 of that year.

"312. (1) A corporation shall cause minutes of all proceedings at meetings of the shareholders or members and of the directors and of any executive committee to be entered in books kept for that purpose.

(2) Any such minutes, if purporting to be signed by the chairman of the meeting at which the proceedings were had or by the chairman of the next succeeding meeting, are admissible in evidence as prima facie proof of the proceedings.

(3) Where minutes in accordance with this section have been made of the proceedings of a meeting of the shareholders or members or of the directors or any executive committee, then, until the contrary is proved, the meeting shall be deemed to have been duly called, constituted and held and all proceedings had thereat to have been duly had and all appointments of directors, officers or liquidators made thereat shall be deemed to have been duly made."

(Formerly Section 101 of The Companies Act).

"313. A corporation shall cause the following documents and registers to be kept:

1. A copy of the letters patent and of any supplementary letters patent issued to the corporation and of the memorandum of agreement, if any, or, if incorporated by special Act, a copy of the Act.
2. All by-laws and special resolutions of the corporation.

- " 3. A register of shareholders or members in which are set out the names alphabetically arranged of all persons who are shareholders or members or have been within ten years shareholders or members of the corporation and the address of every such person while a shareholder or member . . .
4. A register of directors in which are set out the names, addresses and callings of all persons who are or have been directors of the corporation with the several dates on which each became or ceased to be a director."

(Formerly Section 101 of The Companies Act).

"316. A director, officer or employee of a corporation who makes or assists in making any entry in the minutes of proceedings mentioned in Section 312, in the documents and registers mentioned in Section 313..... knowing it to be untrue, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months or both".

"325. (1) If a corporation heretofore or hereafter incorporated by letters patent did not go or does not go into actual bona fide operation within two years after incorporation or for any two consecutive years did not or does not use its corporate powers, the Lieutenant Governor, after having given the corporation such notice as he deems proper, may by order declare such powers forfeited, except so far as is necessary for the winding up of the corporation.

(3) Where the powers of a corporation have been forfeited under subsection 1 or a predecessor of subsection 1, the Lieutenant Governor on the application of the corporation may by order, on such terms and conditions as he sees fit to impose, revive the corporate powers."

(Formerly Section 27 of The Companies Act).

"326. (1) Where sufficient cause is shown, the Lieutenant Governor may by order, upon such terms and conditions as he deems fit,

- (a) cancel the letters patent of a corporation and declare it to be dissolved on such date as the order fixes;
- (c) cancel any supplementary letters patent issued to a corporation.

(Formerly Section 29 of The Companies Act)

" (2) Where it appears that a corporation is in default for a period of three years in filing its annual returns under The Corporations Information Act or a predecessor thereof and that notice of such default has been sent by registered mail to each director of record in the office of the Provincial Secretary to his last address shown on the records of that office and has been published once in The Ontario Gazette, the Lieutenant Governor may by order,

- (a) cancel the letters patent of the corporation and declare it to be dissolved on such date as the order fixes;

(3) Where a corporation has been or is dissolved under subsection 2, the Lieutenant Governor, on the application of any interested person made within three years after the date of dissolution, may in his discretion by order, on such terms and conditions as he sees fit to impose, revive the corporation, and thereupon the corporation shall, subject to the terms and conditions of the order and to any rights acquired by any person after its dissolution, be restored to its legal position, including all its property, rights, privileges and franchises, and be subject to all its liabilities, contracts, disabilities and debts, as at the date of its dissolution, in the same manner and to the same extent as if it had not been dissolved".

"339. Every person who makes or assists in making a statement in any return, certificate, financial statement or other document required by or for the purposes of this Act, knowing it to be untrue, is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or to both.

(Formerly Section 108 of The Companies Act)

"340. Every corporation that, and every person who, being a director or officer of the corporation, or acting on its behalf, commits any act contrary to any provision of this Act, or fails or neglects to comply with any such provision, is guilty of an offence and on summary conviction, if no penalty for such act, failure or neglect is expressly provided by this Act is liable to a fine of not more than \$200."

E X H I B I T 5

THE RELEVANT SECTIONS OF THE CORPORATIONS INFORMATION ACT

"3. (1) On or before the 1st day of June in each year, without notice or demand to that effect, every corporation incorporated under the law of Ontario and every other corporation having its head or other office or carrying on business under The Insurance Act or The Loan and Trust Corporations Act, or unless of a class exempted by the regulations, shall make out, verify and file with the Provincial Secretary, together with the prescribed fee, a return stating, as of the 31st day of March next preceding,

- (a) its name;
- (b) the jurisdiction under which it was incorporated;
- (c) (i) the manner of its incorporation, whether by special Act, letters patent, registration or otherwise,
 - (ii) the date of its incorporation;
- (d) whether or not it is carrying on business;
- (e) generally the business that it is actually carrying on;
- (f) (i) the number of directors authorized,
 - (ii) the names and residence addresses, giving street and number, if any, of the persons who are directors, the date on which each became a director,
 - (iii) the names and residence addresses, giving street and number, if any, of the persons who have been since the date of the last annual return but who are no longer directors, the dates on which each became a director and ceased to be a director;
- (g) the names and residence addresses, giving street and number, if any, of its president, secretary, treasurer and manager;
- (h) the location of its head office, giving street and number, if any;
- (i) the date on which its last annual meeting was held;

" (3) The return mentioned in subsection 1 shall be verified by the certificate of the president or, in his absence, of a director of the corporation.

(6) A corporation that fails to comply with this section is guilty of an offence and on summary conviction is liable to a fine of \$20 for each day of such failure and every director or officer of the corporation, - - - is guilty of an offence and on summary conviction is liable to a fine of not more than \$200.

(8) The president or a director of a corporation who knowingly makes a statement false in any material particular in a certificate required by this section is guilty of an offence and on summary conviction is liable to a fine of not more than \$1,000 or to imprisonment for a term of not more than three months, or both."

"4. The Provincial Secretary may at any time by notice require any corporation to make a return upon any subject connected with its affairs within the time specified in the notice, and on default in making such return every director of the corporation, and, where the corporation is an extraprovincial corporation every person acting as its representative in Ontario, is guilty of an offence and on summary conviction is liable to a fine of not more than \$200".

"6. The Lieutenant Governor in Council may make regulations,

(g) notwithstanding subsection 1 of section 3, specifying the information to be contained in the return mentioned therein;

(j) respecting any matter necessary or advisable to carry out effectively the intent and purpose of this Act".

EXHIBIT 6

METROPOLITAN TORONTO POLICE

MB/5201/CL

July 11th, 1962.

James P. Mackey, Esquire,
Chief of Police,
92 King Street East,
Toronto, Ontario.

Sir: RE: THE SOMERSET CLUB, 4140 Bathurst Street.

With reference to the above mentioned club, I respectfully submit the following report which is in addition to a report previously submitted to the Provincial Secretary, by this Department, in July, 1960.

First, I would like to draw attention to one, Harry Eisen, 1411 Eglinton Avenue West, who is mentioned in paragraph 2, page 4 of the report submitted in July, 1960. Harry Eisen appeared, on the annual returns, as the secretary-treasurer of the Somerset Club for the years 1955 to 1958 while it was located at 431 Spadina Avenue. He also appeared as secretary-treasurer of the Bellevue Club at 431 Spadina Avenue when it gained possession of these premises following the move of the Somerset Club to its present location at 4140 Bathurst Street. At the present time, Harry Eisen is facing trial on conspiracy charges concerning betting houses. He is one of six accused involved in the operation of several ex-chartered social clubs, namely: West End Bridge Club, Columbia Bridge and Social Club, Divian Club, and, of course, Bellevue Social Club whose charter is still valid.

Since the adverse report was submitted to the Provincial Secretary in July, 1960, officers from the Morality Bureau and Number 17 Division have executed many Orders for Search on the premises of the Somerset Club. The following observations and investigations have been made and are, I believe, worthy of a great deal of attention:

On Saturday, August 20th, 1960, officers from the Morality Bureau executed an Order for Search on the Somerset Club, and immediately prior to entering, they overheard Sol Borenstein, club steward, giving out baseball scores over the telephone. This same Sol Borenstein was also a member of the Clarion Club and the Atlas Club.

On Friday, September 16th, 1960, officers from Number 17 Division executed an Order for Search on the Somerset Club premises. Seven persons were present, and among them were Albert James Stoutley, 1300 Eglinton Avenue West, Apartment 1, and Victor Chernick, 80 Walmer Road. Both these men stated that they were club members. On many occasions, Stoutley was found on the premises of the Bellevue Club, 431 Spadina Avenue. He also identified himself as a member of the Somerset Club.

On Sunday, April 2nd, 1961, officers from Number 17 Division executed an Order for Search on the Somerset Club. Among those present was Sydney Traister, 157 Jameson Avenue, Apartment 405, who identified himself as a club member. This is verified by his club membership card on file. Traister was also a member of the Clarion Club, 501 Yonge Street, Club Bernard, 560 King Street West, Atlas Club, 287 Spadina Avenue, and the Bellevue Club, 431 Spadina Avenue. His name also appeared as a visitor to the Jordan Club, 104 Adelaide Street West.

On Friday, September 2nd, 1960, an investigation was conducted on the premises of the Clarion Club, 501 Yonge Street, by officers from Number 1 Division. This resulted in the arrest of Samuel Sokalsky and Edward Eisen on charges of Keep a Common Betting House and Engage in Bookmaking. They appeared in court on November 1st, 1960, before His Worship, Magistrate C.A. Thoburn, when Eisen was convicted on the betting house charge and was fined \$500.00 or three months imprisonment. The remaining charge of Engage in Bookmaking was withdrawn. All charges against Sokalsky were dismissed.

It was noted, from observations taken on the Clarion Club premises immediately before the arrest, that Sydney Traister was absent, and it was believed that he was recording bets which were taken on the club premises and other known betting establishments. Subsequently, on September 13th, 1960, a warrant was executed at the home of Sydney Traister, 157 Jameson Avenue, Apartment 405, by officers from Number 1 Division. As a result, Traister was arrested on charges of Record or Register Bets and Engage in Bookmaking. Betting sheets for a four-day period, totalling \$65,000.00 in bets on various sports and horse races, were seized. Many well known bettors' names appeared on these betting sheets, and listed thereon was the name of the Jordan Club, showing a \$1,000.00 bet and \$500.00 of this was laid off with the Somerset Club. There can be no doubt that this was in relation to the Somerset Club at 4140 Bathurst Street as this is the only club by that name. The Somerset name also appeared on the pay-off sheet. (These sheets are still available for examination.)

Sydney Traister appeared in court on November 3rd, 1960, before His Worship, Magistrate C.A. Thoburn, when he pleaded guilty to the Charge of Record or Register Bets and was fined \$200.00 or 40 days imprisonment. A four-day business of \$65,000.00 would indicate a yearly turnover of approximately \$6,000,000.00. When Traister was questioned regarding the person for whom he was writing, he stated "I don't know. I meet a man at Yonge and Gerrard, or some other downtown corner, once a week, and get paid there."

Sydney Traister was also present on the Somerset Club premises on several other occasions, and he stated that he was a member of the club, which is corroborated by his membership card on file on the premises. As well as being a member of the Somerset Club and the Clarion Club, Traister was a member of Club Bernard and a guest at the Jordan Club; the latter three clubs, of course, all being dissolved following convictions on betting house charges.

On Friday, May 26th, 1962, at approximately 9.15 p.m., officers from Number 17 Division executed an Order for Search on the Somerset Club premises, and present was one, Ruben Stein, 102 Laurelcrest Avenue. He identified himself as a club member. This is the same Ruben Stein who was observed, by Number 1 Division officers, to contact two known bookmakers in the downtown area and then proceed, by auto, to 353 Betty Ann Drive, where he parked his car some distance away and proceeded to these premises on foot.

On Tuesday, March 28th, 1961, at approximately 3.40 p.m., officers from Number 1 Division executed an Order for Search on the premises at 353 Betty Ann Drive, and the investigation resulted in the arrests of Ruben Stein, Martin Wolfish and Pearl Wiseman on charges of Keep a Common Betting House, Record or Register Bets and Engage in Bookmaking. Also charged by summons were Sam Band and Freda Band, 353 Betty Ann Drive. Sam Band was not present when entrance was first gained, but arrived shortly after, and as his wife, Freda Band, was under the doctor's care, they were not arrested. This address was the site of a very large operation, and large bets were received on two telephones from many points outside Toronto, including points in United States.

The accused all appeared in court on November 17th, 1961, before His Worship, Magistrate J.M. Cloney. Sam Band was convicted on the charge of Keep a Common Betting House and was sentenced to four months imprisonment and \$800.00 or an alternative of two months. Ruben Stein was also convicted on the same charge and was sentenced to two months imprisonment and \$500.00 or an alternative of two months. All other charges against these two accused, and the remaining accused, were withdrawn or dismissed.

A warrant was executed at the Bell Telephone Company in relation to the phones installed on the premises at 353 Betty Ann Drive, and the records showed numerous calls to points such as Queenston, New York; Chicago, Illinois; Covington, Kansas; Buffalo, New York; Cleveland, Ohio; Miami, Florida; and Canadian centres such as Hamilton, Preston, Montreal and Guelph. The approximate monthly toll charges were \$1,300.00. It is noteworthy that these large tolls to this address ceased the day following the arrest. When approximately \$15,000. per year is spent on telephone charges alone, this would surely indicate a very large operation of illegal betting. Bearing all other matters in mind, the fact that Ruben Stein was a part of this operation, and also a member of the Somerset Club, is a little more than just coincidence.

On Tuesday, February 6th, 1962, at approximately 8.15 p.m., an Order for Search was executed on the Somerset Club premises by officers from Morality Bureau. One, Edward Mallins, alias Malinsky, 131 Elmridge Drive, 53 years, secretary-treasurer, was questioned, and he related that he sometimes banked the club money in his own personal bank account, and when bills became due and the club account was low, he would use the funds in his

own account to meet the bills. When it was pointed out that this was not correct procedure, he stated that he thought some money had been loaned out to the members. At this time, the club membership card file was checked, and one card bearing the name of Bernard Frankel, 57 York Downs Road, was found. Frankel is part owner of the Vogel Furniture Company, 121 McCormack Street, and is also a part owner of Globe Sofa Niter Company, 48 Abel Street.

The premises at 48 Abel Street were under observations for a period of time in October and November 1961, and it was noted that they were frequented daily by one, Dave Gilbert, 1312 Scugog Street, Oshawa, who is a Somerset Club member, and one, Reginald Dann, 63 Braywin Drive, a club steward of the former Jordan Club. A check of the Bell Telephone records on Gilbert's home telephone showed a toll to many convicted and suspected bookmakers in the Toronto area. It is believed that the Globe Sofa Niter Company, 48 Abel Street, was being used, with the full knowledge of Bernard Frankel, by Dann and Gilbert as a "relay" or "back end", and Gilbert's home telephone was used as a billing address for the illegal betting operations at 48 Abel Street. Gilbert was also a member of the ex-Jordan Club.

On November 22nd, 1961, at approximately 1.55 p.m., an Order for Search was executed on the premises of the Globe Sofa Niter Company, 48 Abel Street, by officers from Morality Bureau. A Daily Racing form dated November 21st, 1961, and a Daily paper opened at the Racing Selections were found in the office portion. Just immediately before entering the premises, Reginald Dann, Clifford Dann and Dave Gilbert were observed to leave these premises in a great rush. This observation was made by officers other than those entering on the warrant.

Although Mr. Frankel was not present, he was later interviewed, and he denied that Dann was using the premises for any length of time on any day. He stated that he knew Dann from visiting the Jordan Club, and he also knew Gilbert from Oshawa. Bernard Frankel was also a member of the Clarion Club, the Lakeview Athletic Club, the Jordan Club, and, of course, the Somerset Club.

On Monday, December 11th, 1962, officers from Morality Bureau and the Ontario Provincial Police arrested Reginald Dann, 37 years, 63 Braywin Drive; Ernest Midgeley, 51 years, 33 Princeton Road; Jack Riggs, 42 years, 4 Belvedere Blvd; Leslie F. Digby, 36 years, 727 Annette Street; Raymond Cole, 47 years, 596 Christie Street; Joyce Miller alias Gereau, 32 years, 301 Parklawn Road, and Marguerite L. Vice, 34 years, 170 Park Road South, Oshawa, on joint charges of Conspiracy to Keep Common Betting Houses.

Reginald Dann and his co-accused appeared in Oshawa court on Thursday, June 28th, 1962, before His Worship, Magistrate C.A. Guest, and they received the following sentences; Midgeley and Riggs - \$2000.00 or an alternative of three months, plus two months (Riggs also received an additional sentence of \$1000.00 or one month regarding a betting house charge laid by Metropolitan Toronto Police). Dann - \$1000.00 or one

month. Raymond Cole was remanded to July 9th, 1962, and at this time he was committed for trial by a higher court. The charges against Digby, Vice and Miller were withdrawn at the request of the Crown.

On Saturday, June 2nd, 1962, at approximately 2.50 p.m., officers from Morality Bureau executed an Order for Search on the Somerset Club premises. Among the fifteen persons present were David Stillman, 28 Stadacona Drive, 44 years, a club member, and Morris Saltzman, 15 Blue Forest Drive, 42 years, who was identified as a guest of David Stillman. Both these men were former members of the Jordan Club. David Stillman was also a member of the Lakeview Athletic Club, the Jordan Club, Club Bernard and the Atlas Club. Morris Saltzman was also a member of the Atlas Club and the Stag Club.

A check of the records of the Bell Telephone Company indicates that Morris Saltzman is in contact with one, Ralph Rutledge, 61 Sylvan Avenue, Scarborough. In October, 1960, Rutledge was arrested at his home by officers from Number 1 Division on a charge of Keep a Common Betting House. On entering the premises, under the authority of a warrant, Rutledge was successful in burning all the papers before being apprehended. On December 16th, 1960, when he appeared before His Worship, Magistrate J. Butler, the charge against him was dismissed.

Ralph Rutledge was also arrested, along with his parents, Horace and Amy Rutledge, 61 years and 51 years respectively, at the same address, 61 Sylvan Avenue, on April 24th, 1962, and charged with Keep a Common Betting House and Engage in Bookmaking. These charges are, at present, pending before the courts. Although Ralph Rutledge is not shown as a member of the Somerset Club, the fact that he is in constant contact with Morris Saltzman, a Somerset Club member, is noteworthy. Rutledge was also a member of the Jordan Club.

Morris Saltzman also contacts, by telephone, at least one convicted bookmaker, one, Arthur Morovitz, 18 Watts Avenue, Chelsea, Massachusetts. Bell Telephone records indicate that Saltzman is connected with a gambling casino in Cincinnati, Ohio.

A check of the Somerset Club membership list shows, in addition to the persons previously mentioned, the following members who are also members of several other chartered clubs. Some of these clubs have had their charters cancelled or action is pending in this regard:

G. Hughes, 1598 Eglinton Avenue West, was also a member of the Arlington Club, 1628 Queen Street East.

Joseph Bookbinder, 61 Neptune Drive, was also a member of the Lakeview Athletic Club, the Atlas Club and the Jordan Club. This man showed his place of business, at one time, as 881 Eglinton Avenue West, the former branch of the Jordan Club.

Tony Caradona, 278 Betty Ann Drive, was also a member of the Arlington Club and the Jordan Club.

Max Fialkow, 3815 Bathurst Street, was also a member of the Lakeview Athletic Club and the Bellevue Club. On Tuesday, May 9th, 1962, at approximately 1.30 p.m., officers from the Morality Bureau executed an Order for Search on the premises situated at 567 Riddelle Avenue. An investigation resulted in the arrest of Fialkow on charges of Keep a Common Betting House and Engage in Bookmaking. Fialkow appeared in York Township Court on Wednesday, July 4th, 1962, before his Worship Magistrate J. Butler, and was sentenced to two months imprisonment plus a \$500.00 fine or an alternative of two months imprisonment on the charge of Engage in Bookmaking. The charge of Keep a Common Betting House was withdrawn.

Frank Hughes, 21 Christina Crescent, was also a member of the Jordan Club and the Arlington Club.

Allan Hersco, 515 Chaplin Crescent, was also a member of the Lakeview Athletic Club.

Ben Rosenberg, 111 Whitburn Crescent, was also a member of the Omega Club.

Jack Rosen, 2550 Bathurst Street, was also a member of the Clarion Club and the Lakeview Athletic Club.

Sam Sugarman, 59 Fraserwood Avenue, Apartment 5, was also a member of the Jordan Club and the Atlas Club.

Hyman Lustig, 22 Lyonsgate Avenue, was also a member of the Clarion Club and the Atlas Club. (Record contained in July, 1960, report.)

The following are the dates of cancellation of chartered clubs mentioned in connection with Somerset Club members:

The Clarion Club, formerly 501 Yonge Street, cancelled on April 8th, 1961, following conviction of Edward Eisen on a charge of Keep a Common Betting House, on November 21st, 1960.

Club Bernard, formerly 560 King Street West, cancelled on August 7th, 1961, following gaming house convictions on Joseph Tripodi and Frank Pucci.

The Jordan Chess and Bridge Club, formerly of 104 Adelaide Street West, with a branch at 881 Eglinton Avenue West, was cancelled on December 17th, 1960, following the conviction on the club itself, on October 7th, 1960, on the charge of Keep a Common Betting House.

Lakeview Athletic Club, formerly of 2016A Bathurst Street, was cancelled on April 8th, 1961, following a betting house conviction on Max Baker, Joseph Zeldin and Samuel Binder on December 1st, 1960.

The Omega Club, formerly of 382 Queen Street West, was cancelled for cause on August 21st, 1961.

In regard to the Atlas Club, 287 Spadina Avenue, and the Arlington Athletic Club, convictions have been registered on the principals of each of these clubs for Keep a Common Betting House and Keep a Common Gaming House, respectively, and are now pending appeal. The Stag Club, 686 Bathurst Street, is now before the courts on betting and gaming house charges.

On Friday, February 2nd, 1962, at approximately 8.50 p.m., officers from the Morality Bureau executed an Order for Search on the premises of the Atlas Club, 287 Spadina Avenue. In charge at this time were Benjamin Leitman, 10 Parkhill Road, 61 years, and Sam Goldstein, 2550 Bathurst Street, 51, vice-president. A search at this time revealed a slip of paper bearing the telephone numbers RU 1-8751, ME 3-1230 and ME 3-0747. These telephone numbers are listed to: Red Pancer, 3671 Bathurst Street (RU 1-8751); Moe Pancer, 4130 Bathurst Street (ME 3-1230); Pay Station, Somerset Club (ME 3-0747). Moe Pancer is a member of the Somerset Club, the Atlas Club and the Bellevue Club. He is the owner of Pancer's Restaurant at 4130 Bathurst Street, which is the same building that houses the Somerset Club. Harry Gold, the Somerset Club steward, is also an employee of Moe Pancer, and works in Pancer's Restaurant which is immediately above the club. He is strongly suspected of taking bets for the club in the restaurant.

On Monday, June 18th, 1962, correspondence was received from the Montreal Police Department regarding illegal betting activities between Toronto and Montreal. Montreal Police officers had occasion to investigate one, Hyman Bregman, 2272 Bedford Road, Montreal, on May 15th, 1962, in the premises of the United Recreation Club, 267 Laurier Street, Montreal. In Bregman's possession was found a paper listing the Toronto telephone number ME 5-1480 and the name Somerset Club alongside it. This was, until recently, the listing of the Somerset Club, 4140 Bathurst Street. The Montreal Police state that the United Recreation Club is frequented by professional gamblers, bookmakers and other types of criminals. Surely this can only indicate another link in a large scale illegal operation.

The records of men found on the Somerset Club premises, or named in this report, are in addition to those records submitted to The Provincial Secretary in July, 1960:

GILBERT David

Dec. 7th, 1936	Breach of Railway Act	\$5.00 and costs or 5 days
June 29th, 1938	Shopbreaking and Theft	6 months definite and 2 months indefinite
Dec. 12th, 1938	Break, enter and theft	2 months
Mar. 30th, 1952	Break, enter and theft	24 months less one day.
Nov. 4th, 1955	Shopbreaking and theft	Suspended sentence
July 23rd, 1940	Keep Common Gaming House	\$10.00 and costs

April 25th, 1941	Found in Gaming House	\$5.00 and costs
Sept. 4th, 1941	Found in Gaming House	\$25.00 and costs
Dec. 4th, 1947	Found in Gaming House	\$25.00 and costs
July 5th, 1950	Keep Common Gaming House	\$150.00 and costs
Mar. 10th, 1955	Found in Gaming House	\$25.00 and costs

STEIN Ruben

Nov. 17th, 1961	Keep Common Betting House	2 months and fined \$500.00 or 2 months
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STOUTLEY Albert James

Feb. 28th, 1936	Theft, two charges	Remanded
June 16th, 1937	Receiving	4 months
Sept. 6th, 1938	Theft	9 months definite and 3 months indefinite
Sept. 13th, 1940	Attempt Shopbreaking	15 months definite and 6 months indefinite.
June 1st, 1942	Shopbreaking and theft, 2 charges	2 years on each charge consecutive
Nov. 23rd, 1945	Break, enter and theft	2 years on each charge consecutive
Feb. 28th, 1946	Rob while armed, Theft of auto, Theft of auto marker	10 years and 12 strokes of the strap on the first charge; 1 year on second charge, consecutive, and 1 year on third charge, concurrent
Oct. 11th, 1946	Conspiracy	18 months, consecutive with present sentence

TRAISTER Sydney

Nov. 3rd, 1960	Record or Register Bets	\$200.00 or 40 days
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CHERNICK Victor

Feb. 3rd, 1948	Illegal Poss. Drugs	2 years less 1 day definite and fined \$500.00 or 4 months additional
	Dangerous Driving	3 months concurrent

CHERNICK Victor (continued)

April 25th, 1951	Illegal Poss. Drugs	2 years and 3 months and fined \$1000.00 or 6 months
March 8th, 1954	Illegal Poss. Drugs	6 years and fined \$500.00 or 3 months
April 14th, 1954	Conspire to commit arson Attempt arson Have explosives	Withdrawn on all charges
April 20th, 1954	Place explosive with intent	2 years consecutive with term now serving
June 29th, 1960	Theft	Dismissed
Sept. 29th, 1960	Attempt break and enter with intent Break and enter with intent	2 years on each charge, concurrent

FIALKOW Max

July 4th, 1962	Keep Common Betting House	\$500.00 or 2 months plus 2 months
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DANN Reginald

June 28th, 1962	Keep Common Betting House	\$1000.00 or 2 months
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Taking into careful consideration all the above outlined facts, it can only be logically concluded that the Somerset Club operates in precisely the same manner as so many clubs of a like nature who have lost their corporate powers mainly because of illegal gambling and betting.

It is respectfully submitted that the foregoing information be forwarded to the Provincial Secretary, Queen's Park, with a recommendation that the charter of the Somerset Club be cancelled.

Respectfully submitted,

"H.S. Thurston"

H.S. Thurston, Inspector,
Morality Bureau.

HST/gw

EXHIBIT 7

Page 1.

Re: Ramsey Club Ave.
1693 Victoria ~~Street~~, 2nd floor,
Niagara Falls, Ontario.

Owner of building: James Sacco

Dominion of Canada Charter - not bona-fide under
the Canadian Companies Act.

The Companies Act have many rules and requirements
with which the above mentioned Club fail to comply.

After charges are laid the onus is on the club to
prove they are a bona-fide social club. Therefore,
at the time of the raid all books, such as minute
books; account books; along with all bills, should
be taken as exhibits and evidence. If the books are
not on the premises the Steward should be asked where
they are kept. If they are kept at a lawyer's office,
or an accountant's office, these books should be im-
mediately seized under a search warrant as they will
play an important part in the prosecution if you are
forced to go this far, which I am sure will not be
necessary.

The Companies Act says the books must be kept on the
premises and that meetings must be held, and minutes
must be kept. The three officers of this Club have
never attended any meetings; do not have any minutes;
and will not be in a position to manufacture any.
The three officers should be questioned as soon as
possible at the time of the raid, or immediately after,
as to club affairs - such as.....

1. Where Minutes of meetings are kept.
2. Where meetings are held.
3. How they were nominated for their positions.
4. Who attended these meetings.
5. If there was a quorum present and who the
members were comprising this quorum.
6. If permission to move this Charter from
Fort Erie to Niagara Falls has been granted
by the Companies Department, and how repre-
sentation to do this was made. Here again
we will find a breach of the Companies Act.

In going over the Companies Act there are many requirements
which this Club fails to abide by. Therefore, they fall
far short of being a bona-fide social club.

The learned Magistrate, in judging this case must
first decide if this Club is an incorporated bona-fide
social club, or branch thereof, in order for this Club
to be given the exception mentioned in sub-section (2)
of Section 168 of the Criminal Code.

Dealing with prima facil evidence which will be more than sufficient to warrant laying charges:-

1. Reputation

These premises have previously been convicted of being a common gaming house, and the local police have had many complaints. There is no doubt that the reputation of this place, and its patrons, is nefarious.

2. Tangible Prima Facil Evidence

- (a) Three locked and bolted doors - should be removed for evidence.
 - (b) Barricaded windows.
 - (c) Electric buzzer from first hallway leading to upstairs door.
 - (d) Inside first door an American doorman with key in his pocket to second locked door. His name is Izzadore Seigal, alias "Gimpy" - convicted gambler with extensive record. This man, if questioned in private before a Justice of the Peace, or Magistrate, pursuant to Section 174 (Examination of persons arrested in disorderly houses) as to how he is in possession of key to second door, and who hired him - from whom he receives his pay, and what signal he gives on the buzzer to open the top door, will, if segregated and not allowed to be prompted by his fellow co-workers would be quite informative.
3. The delay in opening doors should be timed.
4. Playing cards.

- (a) Each deck of playing cards found on the premises should be checked carefully and it should be noted which cards are missing, as playing cards are used by the bankers of the game to indicate on which number the patrons place their bets. The cards used would be as follows:

Four, Five, Six,

Jack (which indicates Eleven)

Three card indicates Craps

Eight, Nine and Ten

Each dealer would have a set comprising of these cards. All playing cards should be checked carefully as the ones used the most would be more discoloured, and the cards used as lay-outs become marked by the sharp corners of the dice hitting them.

The strongest evidence, and the most damaging to the accused will be enormous amount of cash found on the Keepers. This money will all be brand new American currency. Under examination this money will show that each bill has been rubbed or soaped (as it is called in professional gambling circles) with tailors wax. The type of wax that is used by tailors to mark cloth. This money is so treated before every game. The wax used will be found on the premises, or on the accused. An analysis by the Provincial Police Crime Lab will show that it is the same tailors wax found on the premises that is rubbed on the back and front of all new money used on these premises. Along with this evidence there will be found money wrappers with the bank's name where all this new money is purchased. Further, this new money will all run in sequence, therefore, patrons found on the premises will have in their possession new American money of the same sequence of serial numbers with tailor's wax rubbed on the back and front. It will be interesting to hear a reasonable explanation for finding some Thirty Thousand Dollars in American currency on these premises, for this is the amount required to bank this operation.

A large number of manila envelopes should be used to hold each patron's valuables as he is thoroughly searched. It will be found that most of the patrons money will contain some of this newly waxed American money of the sequence corresponding with the money found on the keepers. The patrons should be asked if they have had any financial transactions with the accused, and how they came to be in possession of this money. The money wrappers found will determine at which bank this money has been obtained, and in what quantity, and by whom.

6. The pool table will tell an interesting story! By removing the green felt at the time of the raid the Crine Lab will be able to show that this cloth has been worn in four distinct places where the four dealers of this banked game stood and worked. These worn spots will be saturated with tailors wax and salt from perspiration off the hands of the dealers while they toil at their trade. If the cloth is photographed under infra ray light it will show where the playing cards were placed in their positions on each side of the four dealers.
7. Another damaging piece of evidence will be two dixie cups stuck together with glue, which is used as a dice cup. As these cups wear out or become used, approximately every half hour, a new cup is made up. The old one is usually torn up and thrown in a waste paper basket. These scraps should not be overlooked. Your Lab will once again be able to show dice marks on inside of cup, along with lint from pool table cloth. This will confirm that these cups were used to roll dice on the pool table. The glue found on the premises should also be taken as evidence.
8. A photographer and finger print man will add to strengthen your case. The keepers, under the Code, should be finger printed and in so doing you will find that caught in the net are two notorious New York hoodlums - one Benjamin Niccollitti, and Dominic Mantele, who are the number one bosses. They may have false credentials in their possession but I feel sure that the F.B.I. or the Buffalo Police Department will be able to supply you with mug shots of these two desperados.

American
Keepers

Benjamin Niccollitti - American - Top Maffia boss
Lengthy record and if charged will abscond bail
Will be found in main club room - usually sits on
ladder overlooking crap game. (take ladder as
evidence)

Dominic Mantele - American - Lengthy record. His
job is to sit on cash or bank roll money. Will be
found to have in his possession considerable money,
and dice. Any papers or figures found on this man
should be examined well (do not overlook his
cigarette package).

Frank Cabello - American - Works as dealer. Will
have considerable bank roll money

Carl Maize - American - Dealer.

Samuel Perri - American - Dealer.

Danny Zamzonieze - American - Dealer

Frank Magardito - American - Dealer

Izzadore Seigel - American - Doorman downstairs -
possesses key to let patrons in
to second door. May lay key on
floor. Uses buzzer to signal up-
stairs. Convicted hoodlum and
very feeble-minded.

These are the eight Americans who should definitely
be charged xxxxxx They can all be counted on to abscond
their bail. Therefore, the Justice of the Peace should
be advised that this is a serious offence and the penalty
could be two years, less one day, and a large bail should
be asked for these accused - not less than three thousand,
and preferably five thousand - cash!

Canadian
Keepers

Ralph Aggrette - Steward of club - Believed to have previous conviction. Should be questioned very thoroughly on how he got to be an officer of the club and everything pertaining to its operation and management. If this witness is properly handled will tell the truth behind the club's true operations. He is a very frightened individual and has been promised by the rest of the Canadian bosses that nothing can go wrong and that he could not get into any trouble as they have strong political connections.

Peter Sacco - Convicted gambler - Brother of landlord of building. Helps out on door at top of stairs.

Albert Iannuzzeli - Top Canadian boss and responsible for convincing the Americans that they could come to no harm as long as he was their local politician. Believe this fellow is smart enough not to be found on the premises as he is the holder of motel licenses and the president of a finance company, whose charter was issued in his name by the Dominion of Canada. If you are lucky enough to find this person on the premises you would be well advised to charge him as a keeper. In doing this he would advise his brother, who is sure to be on the premises, to plead guilty and thereby let Albert off by making a deal.

Louis Iannuzzeli - Brother of Albert. His job is to count the money and keep figures and see that the Canadian partners get their fair share of the profits. Therefore, any figures or papers found on this man should be compared with figures and papers found on the American top bosses, as both combinations must keep figures on their person.

Michael Paulo - Convicted gambler. Watchman on roof of building.

Peter Mitchell - Has lunch counter concession, and has convinced the rest of the Canadians that he has an inside track with the Anti Gambling Squad and will be able to tell them when the place is to get raided.

John Sicconie - Lookout man in cubby at rear of second floor overlooking back of premises.

Observation

In observing these premises it should be noted that the two principal Canadian keepers (Albert and Louis Iannuzzeli) own and operate a Motel under the name of "Hilltop" Directly opposite across the railroad tracks from these Club premises.

This Motel is the meeting place each and every night of the principals in this large scale gambling operation. It will be noted that Benny Niccollitti and Dominic Mantele arrive at this Motel between eight and eight-thirty each night. They proceed into the office of the Motel where a safe containing American money and dice and paraphernalia is kept. After checking their equipment and taking what money will be needed to start off with they proceed to walk across the railroad tracks to Club premises. Niccollitti's Cadillac car bearing State of New York license plates is left parked at the Motel, along with cars belonging to most of the other American keepers. If one of your men was to register at this Motel and remain a couple of days this pattern could be verified, and at the time of executing your warrant on Club premises a further warrant should be executed at the Motel premises. The Motel safe will contain balance of American money in the same sequence found on the accused men, along with dice, glass croupier sticks and other paraphernalia which you will have no trouble tying in with Club operation. Dealers cars found on Motel premises should be searched for fire arms.

This same procedure takes place at the end of each night's operation. Once again these gentlemen can be observed returning across the tracks going in to the office safe and putting their equipment away. If your officer does not have a good view of the Club premises from his Motel room he should request a change where he can observe more closely the large operation and routine procedure which takes place each and every night.

The glass croupier sticks mentioned on preceding page were made to order for Peter Sacco, one of the Canadian keepers. They were manufactured by the Ace Leon Signs, Fallsvlew, Ontario. If inquires are made at this company as to what purpose these hollow glass tube sticks were manufactured this will be a damaging piece of evidence against the accused. On your raid at the Club premises this hollow glass tube cane will be smashed or hidden, therefore, fragments of the glass cane should be swept up and turned over to the Crime Lab for reassembling. I would suggest that Magistrate Roberts of Niagara Falls, Ontario, be advised of your intentions in this matter, and possibly he will consent after reading this brief to disqualify himself from hearing this case and act as a Justice of the Peace in the interrogation of the people found on Club premises, pursuant to Section 174 of The Canadian Criminal Code. If this procedure is adopted a prearranged list of some thirty questions should be put to the patrons. Such as:

1. Ask if they are a member of this club.
2. When they became a member of this Club.
3. If they paid a membership fee, and to whom

After a few routine questions it will be quite apparent that this whole affair is a fictitious fraud, and that there is nothing bona-fide about this corporation.

It would be essential that the people found therein be questioned in private in order that one individual would not know what the other person questioned has said.

Thereby you will obtain a vast array of answers.

If the eight or ten keepers were immediately segregated the others would have no opportunity to be coached or threatened.

I would further suggest that immediate steps be taken to cope with this situation because as each day passes it becomes more involved. If there is a lapse of much time many of these loop-holes which I have mentioned will slowly but surely be mended. My reason for saying this is that their financial position strengthens each day this operation continues, thereby, enabling them to hire or obtain more experienced legal advice, along with other individuals helpful in this respect.

I hope that this brief will be helpful to you in your efforts to bring this Club to a just a speedy trial.

EXHIBIT 8

(Article taken from the April 1962 edition
of the magazine "The Atlantic")

THE BALEFUL INFLUENCE OF GAMBLING

From the Two-dollar Bet to Narcotics

by ROBERT F. KENNEDY

" No one knows exactly how much money is involved in gambling in the United States. What we do know is that the American people are spending more on gambling than on medical care or education; that, in so doing, they are putting up the money for the corruption of public officials and the vicious activities of the dope peddlers, loan sharks, bootleggers, white-slave traders, and slick confidence men.

Investigation this past year by the FBI, Internal Revenue Service, the Narcotics Bureau, the Post Office Department, and all other federal investigative units has disclosed without any shadow of a doubt that corruption and racketeering, financed largely by gambling, are weakening the vitality and strength of this nation.

But, as I sit down today to write this article, a business executive with an industrial firm on the Eastern seaboard is telephoning a bookmaker to place a fifty-dollar bet on a horse race; a factory worker in a Midwestern town is standing at a lunch counter filling out a basketball parlay card on which he will wager two dollars; a housewife in a West Coast suburb is handing a dime to a policy writer who operates a newsstand as a front near the supermarket where she shops.

These people, and millions like them who follow similar routines every day, see nothing wrong in what they are doing. Many of them can afford the luxury of this type of gambling. They look upon it simply as taking a chance.

But they are taking a chance which the nation and its economy cannot afford. They are pouring dimes and dollars day by day into a vast stream of cash which finances most illegal underworld activities. The housewife, the factory worker, and the businessman will tell you that they are against such things as narcotics, bootlegging, prostitution, gang murders, the corruption of public officials and police, and the bribery of college athletes. And yet this is where their money goes.

" Last May I appeared before a subcommittee of the House Committee on the Judiciary and testified in support of anticrime legislation then pending before the Congress. Relying on rock-bottom estimates of the Department of Justice, I estimated - probably conservatively - that illegal gambling in the United States does a gross volume of \$7 billion annually. That is more than the American people spend each year on bread.

Mortimer Caplin, the Commissioner of Internal Revenue, told Senator John L. McClellan's anti-racketeering committee that a total of \$25 billion a year is wagered in the United States, but he did not provide a breakdown on how much was legal and how much went into illegal channels. Twenty-five billion dollars is almost as much as we spent on education in this country last year.

Last August, John Scarne, who has made a study of gambling for many years, testified before the McClellan committee that the annual gross figure on illegal gambling involves about \$50 billion. He testified that the bulk of this money was bet on horse racing through bookies. Fifty billion dollars is eight billion more than Congress appropriated last year for national defense. Our estimate of \$7 billion may be low. Mr. Scarne's estimate of \$50 billion may be too high, but it could be right. The truth is that nobody really knows. Senator McClellan pointed out that if the figure of \$50 billion is accurate, the government is being cheated out of some \$5 billion a year in taxes owed by the gambling community.

Is this really the way American citizens want it to be?

The great discrepancy in the guesses as to how much is wagered each year is understandable, because once the housewife, the factory worker, or the business executive gives money to a local bookie or policy writer, it disappears into the pocket of the underworld figure, who is in business to cheat the government - and his customer, if he can. And while many persons may regard the bookie on the other end of the telephone and the neighbourhood numbers writer as the gambling racketeers, actually they are usually the small-time front men who stand to make a profit with every person who bets with them.

The bookies make a profit from the bettors because they have an edge on every bet. They pay track odds, but usually not in excess of twenty to one. The odds at the track are calculated after deducting the 15 to 18 percent of the total betting pool which goes to pay taxes and other expenses. The bookmaker pockets that amount.

But he is not a man of unlimited resources. He must balance his books so that he will lose no more on the winner than has been bet on the other horses in a race, after his percentage has been deducted.

"He cannot control the choices of his customers, and very often he will find that one horse is the favorite choice of his clientele. His "action," as he calls it, may not reflect the action of the track. Therefore, he must reinsure himself on the race in much the same way that a casualty insurance company reinsures a risk that is too great for it to assume alone. To do this, the bookmaker uses the "layoff" man, who, for a commission, accepts the excess wager.

The local layoff bettor also will have limited funds, and his layoff bets may be out of balance. When this occurs, he calls the large layoff bettors, who, because of their funds, can spread the larger risk. These persons are gamblers who comprise a nationwide syndicate or combine. They are in close touch with each other all the time, and they distribute the bets among themselves so that an overall balance is reached on any horse race.

With a balanced book at any level - handbook, layoff, or syndicate - the edge is divided, and no one loses except the men and women who placed the bets. As an indication of the volume of business I am talking about, one of the largest operators in the combine does a layoff business of \$18 million a year. His net profit is \$720,000 a year. This is a 4 percent return on volume, with relatively no risk, as a result of the balancing of his books on each event.

The term "gamblers" is a misnomer for these persons. They accept money that the small gamblers wager, but they do not gamble at all. This is further illustrated, graphically, by what we know as the numbers racket.

A man purchases a ticket with three numbers on it, paying a dollar for the ticket. Since there are 999 such numbers, he should reasonably expect the odds to be 998 to 1. The numbers bank usually pays 600 to 1 on such a wager - or less - so you can see that the only gambler in this situation is the man who makes the bet. The operator pockets forty cents of every dollar bet - that is, if the game is run honestly. That, however, is too much to expect from this group. If the play is too high on any one number, they manage through devious means to ensure that a number on which the play has been small will be the winner.

WHILE we do have great problems in estimating the total amount gambled illegally, we can get some idea from significant records made available by the Internal Revenue Service through raids.

For example, the records of an Indiana bookmaker indicate that for a three-day period he received a total of \$1,156,000 in wagers. A check of the gross receipts of a large department store in the same city indicated its gross for the same three days as \$31,863. A Chicago bookie's records showed he took in \$6,400,000 in total wagers for one year, while a chain grocery store in Chicago showed total gross receipts of only \$293,000.

"While, actually, these comparisons may be unfair, in that the bookmakers probably are doing considerable layoff betting from smaller bookies in other cities and other states, these two instances are not unusual, as the following Internal Revenue figures indicate: A Los Angeles bookmaker, Jack Rosen, took in \$4,511,000 in one year. A Miami bookie received \$1,594,000; a Virginia bookie, \$1,221,000 for an eight-month period; and a Tennessee bookmaker, \$1,689,000 for five months. A Pennsylvania policy operator collected \$587,000 in seven months.

But, invariably, when federal agents try to raid bookmakers and policy operators, the first efforts of the law violators are aimed at destroying all of their books and records. Only a short while ago raiders in Detroit used a ladder to go through a second-story window in a raid in which they found people in the house burning information sheets in a potbellied stove which had a padlock on it. IRS agents in Atlanta recently raided a policy operator who also operates a supermarket. They found records of baseball bets in his cash register. While agents were examining these slips, the operator of the establishment suddenly touched his cigarette to the betting slips, and they exploded in a ball of fire. This bolt-flash paper is now widely used by racketeers so that they can do away with their records in a matter of seconds. A New Orleans bookie who was recently raided raced into his bathroom and dumped his papers into a toilet. Agents were right on his heels and salvaged the soaking documents, which indicated \$6500 in bets had been placed with this operator during part of the day.

In January, Internal Revenue agents raided a large-scale bookmaking operation in Florida. The raid was unique because some of the Revenue agents brought fire extinguishers and were able to douse a fire set to flash paper by operators in an attempt to destroy records. However, I was more interested in the agents' report that the book-making operation appeared to handle about \$250,000 in bets daily.

These cases demonstrate that fantastic sums of money are being handed over to the gamblers by millions of Americans who, like the housewife, the factory worker, and the business executive, think they are simply taking a chance. They are not taking a fair chance. The odds are loaded against them.

THEIR dimes, quarters, and dollars do not stay in the pockets of the big-time gamblers and racketeers. Just as legitimate businessmen invest their profits in other businesses, so do the capitalists of crime use their gambling profits to invest in other criminal businesses. High on the list is narcotics.

" The horrors of the narcotics traffic need no elaboration. The contribution of gambling to narcotics smuggling, however, deserves wide attention. The profits from narcotics smuggling can be enormous, but it takes large amounts of money to finance a narcotics ring, and almost invariably gambling revenues provide the initial investment. Indeed, the use of such revenues to finance narcotics operations is so common as to be virtually inevitable.

During the 1920s and 1930s, such kingpin gamblers as Arnold Rothstein and Waxey Gordon invested huge amounts in the narcotics-smuggling business. An enormous international narcotics conspiracy in the 1950s was financed with the gambling profits and underworld credit of Harry Stromberg. He and seventeen others were convicted for their participation in this five-year heroin-importing operation.

The activities of Vito Genovese, a top racketeer, closely document the kinship between gambling profits and narcotics traffic. The Federal Bureau of Narcotics has described Genovese as having been the motivating force behind an international heroin-smuggling combine, and at the same time the controlling force behind gambling interests in several large cities. At one point, Genovese and several associates attempted to take over the numbers racket in the Spanish-speaking areas of East Bronx, New York. Their plan was to use the gambling profits from the numbers operation to finance heroin shipments into this country. The gang was arrested before it could carry out the entire plan. Genovese is serving a fifteen-year prison sentence for narcotics conspiracy, and his associates also received substantial sentences.

Strong-arm methods, including murder, are common in the illicit narcotics traffic. After a major international narcotics ring was broken up last year, two of the twenty-four defendants were murdered before completion of the trial. One was shot down in the Bronx; the burned body of the other was found near Rochester, New York. The business executive, factory worker, and housewife never encounter the seamy side, but this is what their bets are financing. Again I ask, Is this really the way the American people want it to be?"

"

The dishonesty of the gambling operations, the degradation of the narcotics and white-slave traffic are bad enough, but what really concerns me is the great wealth of the racketeers and the power that goes with it - the power to corrupt police and public officials, and in some instances, gain political control of an area.

The fundamental strength of our democracy, which is based on respect for the law, is at stake. Individual citizens, by working to elect honest public officials and raise policemen's pay, can

"make a major difference in this matter. But in the last analysis it depends on the business executive, the factory worker, and the housewife who have been financing big-time crime with their two-dollar bets and their ten-cent wagers. If they would stop patronizing the illegal bookie, the numbers runner, and the sports-pool operator, they could take the profit out of gambling and bring organized crime down to size quicker than all the combined efforts of the federal and local law-enforcement agencies."

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